

## Union Calendar No. 610

110TH CONGRESS }  
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT  
110-937

REPORT ON THE ACTIVITY  
OF THE  
COMMITTEE ON ENERGY AND COMMERCE  
FOR THE  
ONE HUNDRED TENTH CONGRESS



JANUARY 3, 2009.—Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed

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MEMBERSHIP OF THE COMMITTEE ON ENERGY AND COMMERCE

ONE HUNDRED TENTH CONGRESS

(Ratio 31-26)

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TAMMY BALDWIN, Wisconsin	SUE WILKINS MYRICK, North Carolina
MIKE ROSS, Arkansas	JOHN SULLIVAN, Oklahoma
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JIM MATHESON, Utah	MARSHA BLACKBURN, Tennessee
G.K. BUTTERFIELD, North Carolina	
CHARLIE MELANCON, Louisiana	
JOHN BARROW, Georgia	
BARON P. HILL, Indiana	
DORIS O. MATSUI, California	

#### COMMITTEE ORGANIZATION AND MEMBERSHIP CHANGES

The Committee on Energy and Commerce organized on January 10, 2007, the Honorable John D. Dingell (D-MI), presiding. Seven were new to the Committee at the beginning of the Congress: Ms. Hooley, Messrs. Weiner, Matheson, Butterfield, Melancon, Barrow, and Hill.

One vacancy was created by the death of Hon. Charles W. Norwood, Jr. (R-GA) on February 13, 2007. This vacancy was later filled on March 13, 2007, by Hon. Marsha Blackburn (R-TN), who served on this Committee in the previous, to rank after Rep. Burgess. Rep. Blackburn assumed the subcommittee vacancies left by the death of Rep. Norwood.

A number of other changes occurred in the first session of the 110th Congress regarding the membership of the Committee and its subcommittees. Soon after the Committee organization in January, Ms. Hooley (D-OR) resigned from the Subcommittee on Environment and Hazardous Materials and was replaced by Ms. Schakowsky (D-IL), to rank after Mr. Green (D-TX). Mr. Sullivan (R-OK) took a temporary leave of absence from the Committee and was replaced by Hon. Paul E. Gillmor (R-OH) on June 19, 2007. Mr. Gillmor was assigned to the Subcommittee on Health by unanimous consent. On June 27, 2007, Mr. Gillmor resigned from the Committee and Mr. Sullivan was elected to return to the Committee and his subcommittee assignments. A vacancy was created by the resignation from the House of Representatives of Hon. Dennis Hastert (R-IL) on November 27, 2007. The resignation of Mr. Hastert left a vacancy in the ranking Republican member of the Subcommittee. This vacancy was subsequently filled on December 18, 2007, with the election to the Committee of Hon. Roy Blunt (R-MO), to rank after Mr. Fossella (R-NY).

On December 13, 2007, the Ranking minority member, Rep. Barton (R-TX), presented a resolution that was approved by the Committee making certain changes in the Republican membership and Ranking Members of the standing subcommittees for the One Hundred Tenth Congress, due to the retirement of Mr. Hastert. The Ranking Minority members of the Subcommittee changed as follows: Mr. Upton (R-MI) for Subcommittee on Energy and Air Quality; Mr. Stearns for Subcommittee on Telecommunications and the Internet; Mr. Whitfield (R-KY) for Subcommittee on Commerce, Trade, and Consumer Protection; Mr. Shimkus (R-IL) for Subcommittee on Oversight and Investigations; and Mr. Shadegg (R-AZ) for Subcommittee on Environment and Hazardous Materials. On December 18, 2007, the Committee approved the appointment of Mr. Blunt to the Subcommittee on Energy and Air Quality, to rank behind Mr. Pickering (R-MS). Further changes to the Republican membership were made in a resolution offered by Mr. Shimkus in full Committee markup on March 13, 2008.

In the second session of the 110th Congress, Hon. Albert R. Wynn (D-MD), chairman of the Subcommittee on Environment and Hazardous Materials, resigned on April 9, 2008, from the Committee on Energy and Commerce. The vacancy created by his resignation was filled by Hon. Doris Matsui (D-CA), who was elected to the Committee on June 18, 2008. Ms. Matsui became a member of the Subcommittee on Environment and Hazardous Materials, ranking behind Ms. Schakowsky, and the Subcommittee on Energy and Air Quality, ranking after Mr. Matheson (D-UT).

Mr. Green was approved to serve as Chairman of the Subcommittee on Environment and Hazardous Materials on July 18, 2008, to fill the vacancy created by the resignation of Mr. Wynn. Ms. Capps (D-CA) was appointed on June 18, 2008, by Chairman Dingell to serve as Vice Chair of the Subcommittee on Health, which was formerly held by Mr. Green.

## LETTER OF TRANSMITTAL

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC, January 3, 2009.*

Hon. LORRAINE C. MILLER,  
*Clerk, House of Representatives,*  
*Washington, DC.*

DEAR MS. MILLER: Pursuant to clause 1(d) of Rule XI of the Rules of the House of Representatives, I present herewith a report on the activity of the Committee on Energy and Commerce for the 110th Congress, including the Committee's review and study of legislation within its jurisdiction and the oversight activities undertaken by the Committee.

With every good wish,  
Sincerely,

JOHN D. DINGELL,  
*Chairman.*



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Mr. DINGELL, from the Committee on Energy and Commerce,  
submitted the following

### R E P O R T

#### ACTIVITY OF THE COMMITTEE ON ENERGY AND COMMERCE, 110th CONGRESS

The jurisdiction of the Committee on Energy and Commerce, as prescribed by Clause 1(f) of Rule X of the Rules of the House of Representatives, is as follows:

- (1) Biomedical research and development.
- (2) Consumer affairs and consumer protection.
- (3) Health and health facilities (except health care supported by payroll deductions).
- (4) Interstate energy compacts.
- (5) Interstate and foreign commerce generally.
- (6) Exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
- (7) Conservation of energy resources.
- (8) Energy information generally.
- (9) The generation and marketing of power (except by federally chartered or Federal regional power marketing authorities); reliability and interstate transmission of, and ratemaking for, all power; and siting of generation facilities (except the installation of interconnections between Government waterpower projects).
- (10) General management of the Department of Energy and management and all functions of the Federal Energy Regulatory Commission.
- (11) National energy policy generally.
- (12) Public health and quarantine.

(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

(14) Regulation of interstate and foreign communications.

(15) Travel and tourism.

The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of non-nuclear facilities and of use of non-nuclear energy.

In addition, clause 3(e) of Rule X of the Rules of the House of Representatives provides that the Committee on Energy and Commerce shall review and study on a continuing basis laws, programs, and Government activities relating to nuclear and other energy and nonmilitary nuclear energy research and development including the disposal of nuclear waste.

**RULES FOR THE COMMITTEE ON ENERGY AND COMMERCE,  
U.S. HOUSE OF REPRESENTATIVES, 110TH  
CONGRESS**

(Adopted January 10, 2007)

**RULE 1.—GENERAL PROVISIONS**

(a) *Rules of the Committee.*—The Rules of the House are the rules of the Committee on Energy and Commerce (hereinafter the “Committee”) and its subcommittees so far as is applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, is nondebatable and privileged in the Committee and its subcommittees.

(b) *Rules of the Subcommittees.*—Each subcommittee of the Committee is part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as applicable. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each subcommittee of the Committee.

**RULE 2.—TIME AND PLACE OF MEETINGS**

(a) *Regular Meeting Days.*—The Committee shall meet on the fourth Tuesday of each month at 10 a.m., for the consideration of bills, resolutions, and other business, if the House is in session on that day. If the House is not in session on that day and the Committee has not met during such month, the Committee shall meet at the earliest practicable opportunity when the House is again in session. The chairman of the Committee may, at his discretion, cancel, delay, or defer any meeting required under this section, after consultation with the ranking minority member.

(b) *Additional Meetings.*—The chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purposes pursuant to that call of the chairman.

(c) *Vice Chairmen; Presiding Member.*—The chairman shall designate a member of the majority party to serve as vice chairman of the Committee, and shall designate a majority member of each subcommittee to serve as vice chairman of each subcommittee. The vice chairman of the Committee or subcommittee, as the case may be, shall preside at any meeting or hearing during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting or hearing, the ranking member of the majority party who is present shall preside at the meeting or hearing.

(d) *Open Meetings and Hearings*.—Except as provided by the Rules of the House, each meeting of the Committee or any of its subcommittees for the transaction of business, including the markup of legislation, and each hearing, shall be open to the public including to radio, television and still photography coverage, consistent with the provisions of Rule XI of the Rules of the House.

#### RULE 3.—AGENDA

The agenda for each Committee or subcommittee meeting (other than a hearing), setting out the date, time, place, and all items of business to be considered, shall be provided to each member of the Committee at least 36 hours in advance of such meeting.

#### RULE 4.—PROCEDURE

(a)(1) *Hearings*.—The date, time, place, and subject matter of any hearing of the Committee or any of its subcommittees shall be announced at least one week in advance of the commencement of such hearing, unless the Committee or subcommittee determines in accordance with clause 2(g)(3) of Rule XI of the Rules of the House that there is good cause to begin the hearing sooner.

(2)(A) *Meetings*.—The date, time, place, and subject matter of any meeting (other than a hearing) scheduled on a Tuesday, Wednesday, or Thursday when the House will be in session, shall be announced at least 36 hours (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) in advance of the commencement of such meeting.

(3) *Motions*.—Pursuant to clause 1(a)(2) of rule XI of the Rules of the House, privileged motions to recess from day to day, or recess subject to the call of the Chair (within 24 hours), and to dispense with the first reading (in full) of a bill or resolution if printed copies are available shall be decided without debate.

(B) *Other Meetings*.—The date, time, place, and subject matter of a meeting (other than a hearing or a meeting to which subparagraph (A) applies) shall be announced at least 72 hours in advance of the commencement of such meeting.

(b)(1) *Requirements for Testimony*.—Each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least two working days in advance of his or her appearance, sufficient copies, as determined by the chairman of the Committee or a subcommittee, of a written statement of his or her proposed testimony to provide to members and staff of the Committee or subcommittee, the news media, and the general public. Each witness shall, to the greatest extent practicable, also provide a copy of such written testimony in an electronic format prescribed by the chairman. Each witness shall limit his or her oral presentation to a brief summary of the argument. The chairman of the Committee or of a subcommittee, or the presiding member, may waive the requirements of this paragraph or any part thereof.

(2) *Additional Requirements for Testimony*.—To the greatest extent practicable, the written testimony of each witness appearing in a non-governmental capacity shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any federal grant (or subgrant thereof) or contract (or sub-

contract thereof) received during the current fiscal year or either of the two preceding fiscal years by the witness or by an entity represented by the witness.

(c)(1) *Questioning Witnesses.*—The right to interrogate the witnesses before the Committee or any of its subcommittees shall alternate between majority and minority members. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question witnesses. No member shall be recognized for a second period of 5 minutes to interrogate a witness until each member of the Committee present has been recognized once for that purpose. While the Committee or subcommittee is operating under the 5 minute rule for the interrogation of witnesses, the chairman shall recognize in order of appearance members who were not present when the meeting was called to order after all members who were present when the meeting was called to order have been recognized in the order of seniority on the Committee or subcommittee, as the case may be.

(2) *Questions for the Record.*—Each member may submit to the Chairman of the Committee or the subcommittee additional questions for the record, to be answered by the witnesses who have appeared. Each member shall provide a copy of the questions in an electronic format to the clerk of the Committee no later than ten business days following a hearing. The Chairman shall transmit all questions received from members of the Committee or the subcommittee to the appropriate witness, and include the transmittal letter and the responses from the witnesses in the hearing record.

(d) *Explanation of Subcommittee Action.*—No bill, recommendation, or other matter reported by a subcommittee shall be considered by the full Committee unless the text of the matter reported, together with an explanation, has been available to members of the Committee for at least 36 hours. Such explanation shall include a summary of the major provisions of the legislation, an explanation of the relationship of the matter to present law, and a summary of the need for the legislation. All subcommittee actions shall be reported promptly by the clerk of the Committee to all members of the Committee.

(e) *Opening Statements.*—(1) All written opening statements at hearings conducted by the committee or any of its subcommittees shall be made part of the permanent hearing record.

(2) Statements shall be limited to 5 minutes each for the chairman and ranking minority member (or their respective designee) of the Committee or subcommittee, as applicable, and 3 minutes each for all other members. With the consent of the Committee, prior to the recognition of the first witness for testimony, any Member, when recognized for an opening statement, may completely defer his or her opening statement and instead use those three minutes during the initial round of questioning.

(3) At any hearing of the full Committee, the chairman may limit opening statements for Members (including, at the discretion of the Chairman, the chairman and ranking minority member) to one minute. At any hearing conducted by any subcommittee, the chairman of that subcommittee, with the consent of its ranking minority

member, may reduce the time for statements by members or defer statements until the conclusion of testimony.

RULE 5.—WAIVER OF AGENDA, NOTICE, AND LAYOVER  
REQUIREMENTS

Requirements of rules 3, 4(a)(2), and 4(d) may be waived by a majority of those present and voting (a majority being present) of the Committee or subcommittee, as the case may be.

RULE 6.—QUORUM

Testimony may be taken and evidence received at any hearing at which there are present not fewer than two members of the Committee or subcommittee in question. A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, of authorizing a subpoena, or of closing a meeting or hearing pursuant to clause 2(g) of Rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B)). For the purposes of taking any action other than those specified in the preceding sentence, one-third of the members of the Committee or subcommittee shall constitute a quorum.

RULE 7.—OFFICIAL COMMITTEE RECORDS

(a)(1) *Journal*.—The proceedings of the Committee shall be recorded in a journal which shall, among other things, show those present at each meeting, and include a record of the vote on any question on which a record vote is demanded and a description of the amendment, motion, order, or other proposition voted. A copy of the journal shall be furnished to the ranking minority member.

(2) *Record Votes*.—A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member. No demand for a record vote shall be made or obtained except for the purpose of procuring a record vote or in the apparent absence of a quorum. The result of each record vote in any meeting of the Committee shall be made available in the Committee office for inspection by the public, as provided in Rule XI, clause 2(e) of the Rules of the House.

(b) *Archived Records*.—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3 (b)(3) or clause 4 (b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee. The chairman shall consult with the ranking minority member on any communication from the Archivist of the United States or the Clerk of the House concerning the disposition of noncurrent records pursuant to clause 3(b) of the Rule.

RULE 8.—SUBCOMMITTEES

There shall be such standing subcommittees with such jurisdiction and size as determined by the majority party caucus of the

Committee. The jurisdiction, number, and size of the subcommittees shall be determined by the majority party caucus prior to the start of the process for establishing subcommittee chairmanships and assignments.

#### RULE 9.—POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the Committee on all matters referred to it. Subcommittee chairmen shall set hearing and meeting dates only with the approval of the chairman of the Committee with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

#### RULE 10.—REFERENCE OF LEGISLATION AND OTHER MATTERS

All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks of the date of receipt by the Committee unless action is taken by the full committee within those two weeks, or by majority vote of the members of the Committee, consideration is to be by the full Committee. In the case of legislation or other matter within the jurisdiction of more than one subcommittee, the chairman of the Committee may, in his discretion, refer the matter simultaneously to two or more subcommittees for concurrent consideration, or may designate a subcommittee of primary jurisdiction and also refer the matter to one or more additional subcommittees for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the subcommittee of primary jurisdiction. Such authority shall include the authority to refer such legislation or matter to an ad hoc subcommittee appointed by the chairman, with the approval of the Committee, from the members of the subcommittee having legislative or oversight jurisdiction.

#### RULE 11.—RATIO OF SUBCOMMITTEES

The majority caucus of the Committee shall determine an appropriate ratio of majority to minority party members for each subcommittee and the chairman shall negotiate that ratio with the minority party, provided that the ratio of party members on each subcommittee shall be no less favorable to the majority than that of the full Committee, nor shall such ratio provide for a majority of less than two majority members.

#### RULE 12.—SUBCOMMITTEE MEMBERSHIP

(a) *Selection of Subcommittee Members.*—Prior to any organizational meeting held by the Committee, the majority and minority caucuses shall select their respective members of the standing subcommittees.

(b) *Ex Officio Members.*—The chairman and ranking minority member of the Committee shall be ex officio members with voting privileges of each subcommittee of which they are not assigned as

members and may be counted for purposes of establishing a quorum in such subcommittees.

RULE 13.—MANAGING LEGISLATION ON THE HOUSE FLOOR

The chairman, in his discretion, shall designate which member shall manage legislation reported by the Committee to the House.

RULE 14.—COMMITTEE PROFESSIONAL AND CLERICAL STAFF  
APPOINTMENTS

(a) *Delegation of Staff*.—Whenever the chairman of the Committee determines that any professional staff member appointed pursuant to the provisions of clause 9 of Rule X of the House of Representatives, who is assigned to such chairman and not to the ranking minority member, by reason of such professional staff member's expertise or qualifications will be of assistance to one or more subcommittees in carrying out their assigned responsibilities, he may delegate such member to such subcommittees for such purpose. A delegation of a member of the professional staff pursuant to this subsection shall be made after consultation with subcommittee chairmen and with the approval of the subcommittee chairman or chairmen involved.

(b) *Minority Professional Staff*.—Professional staff members appointed pursuant to clause 9 of Rule X of the House of Representatives, who are assigned to the ranking minority member of the Committee and not to the chairman of the Committee, shall be assigned to such Committee business as the minority party members of the Committee consider advisable.

(c) *Additional Staff Appointments*.—In addition to the professional staff appointed pursuant to clause 9 of Rule X of the House of Representatives, the chairman of the Committee shall be entitled to make such appointments to the professional and clerical staff of the Committee as may be provided within the budget approved for such purposes by the Committee. Such appointee shall be assigned to such business of the full Committee as the chairman of the Committee considers advisable.

(d) *Sufficient Staff*.—The chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee.

(e) *Fair Treatment of Minority Members in Appointment of Committee Staff*.—The chairman shall ensure that the minority members of the Committee are treated fairly in appointment of Committee staff.

(f) *Contracts for Temporary or Intermittent Services*.—Any contract for the temporary services or intermittent service of individual consultants or organizations to make studies or advise the Committee or its subcommittees with respect to any matter within their jurisdiction shall be deemed to have been approved by a majority of the members of the Committee if approved by the chairman and ranking minority member of the Committee. Such approval shall not be deemed to have been given if at least one-third of the members of the Committee request in writing that the Committee formally act on such a contract, if the request is made within 10 days after the latest date on which such chairman or chair-



men, and such ranking minority member or members, approve such contract.

#### RULE 15.—SUPERVISION, DUTIES OF STAFF

(a) *Supervision of Majority Staff.*—The professional and clerical staff of the Committee not assigned to the minority shall be under the supervision and direction of the chairman who, in consultation with the chairmen of the subcommittees, shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he determines appropriate.

(b) *Supervision of Minority Staff.*—The professional and clerical staff assigned to the minority shall be under the supervision and direction of the minority members of the Committee, who may delegate such authority as they determine appropriate.

#### RULE 16.—COMMITTEE BUDGET

(a) *Preparation of Committee Budget.*—The chairman of the Committee, after consultation with the ranking minority member of the Committee and the chairmen of the subcommittees, shall for the 110th Congress prepare a preliminary budget for the Committee, with such budget including necessary amounts for professional and clerical staff, travel, investigations, equipment and miscellaneous expenses of the Committee and the subcommittees, and which shall be adequate to fully discharge the Committee's responsibilities for legislation and oversight. Such budget shall be presented by the chairman to the majority party caucus of the Committee and thereafter to the full Committee for its approval.

(b) *Approval of the Committee Budget.*—The chairman shall take whatever action is necessary to have the budget as finally approved by the Committee duly authorized by the House. No proposed Committee budget may be submitted to the Committee on House Administration unless it has been presented to and approved by the majority party caucus and thereafter by the full Committee. The chairman of the Committee may authorize all necessary expenses in accordance with these rules and within the limits of the Committee's budget as approved by the House.

(c) *Monthly Expenditures Report.*—Committee members shall be furnished a copy of each monthly report, prepared by the chairman for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year by the Committee and subcommittees, anticipated expenditures for the projected Committee program, and detailed information on travel.

#### RULE 17.—BROADCASTING OF COMMITTEE HEARINGS

Any meeting or hearing that is open to the public may be covered in whole or in part by radio or television or still photography, subject to the requirements of clause 4 of Rule XI of the Rules of the House. The coverage of any hearing or other proceeding of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or other proceeding and

may be terminated by such member in accordance with the Rules of the House.

#### RULE 18.—COMPTROLLER GENERAL AUDITS

The chairman of the Committee is authorized to request verification examinations by the Comptroller General of the United States pursuant to Title V, Part A of the Energy Policy and Conservation Act (Public Law 94-163), after consultation with the members of the Committee.

#### RULE 19.—SUBPOENAS

The Committee, or any subcommittee, may authorize and issue a subpoena under clause 2(m)(2)(A) of Rule XI of the House, if authorized by a majority of the members of the Committee or subcommittee (as the case may be) voting, a quorum being present. Authorized subpoenas may be issued over the signature of the chairman of the Committee or any member designated by the Committee, and may be served by any person designated by such chairman or member. The chairman of the Committee may authorize and issue subpoenas under such clause during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the chairman, authorization and issuance of the subpoena is necessary to obtain the material set forth in the subpoena. The chairman shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practicable but in no event later than one week after service of such subpoena.

#### RULE 20.—TRAVEL OF MEMBERS AND STAFF

(a) *Approval of Travel.*—Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the chairman in writing the following: (1) the purpose of the travel; (2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made; (3) the location of the event for which the travel is to be made; and (4) the names of members and staff seeking authorization.

(b) *Approval of Travel by Minority Members and Staff.*—In the case of travel by minority party members and minority party professional staff for the purpose set out in (a), the prior approval, not only of the chairman but also of the ranking minority member, shall be required. Such prior authorization shall be given by the chairman only upon the representation by the ranking minority member in writing setting forth those items enumerated in (1), (2), (3), and (4) of paragraph (a).

## MEMBERSHIP AND ORGANIZATION OF THE COMMITTEE ON ENERGY AND COMMERCE

ONE HUNDRED TENTH CONGRESS

COMMITTEE ON ENERGY AND COMMERCE

(Ratio 31-26)

JOHN D. DINGELL, Michigan, *Chairman*

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DARLENE HOOLEY, Oregon	TIM MURPHY, Pennsylvania
ANTHONY D. WIENER, New York	MICHAEL C. BURGESS, Texas
JIM MATHESON, Utah	MARSHA BLACKBURN, Tennessee
G.K. BUTTERFIELD, North Carolina	
CHARLIE MELANCON, Louisiana	
JOHN BARROW, Georgia	
BARON P. HILL, Indiana	
DORIS O. MATSUI, California	

## SUBCOMMITTEE MEMBERSHIPS AND JURISDICTION

## SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION

(Ratio 16–13)

BOBBY L. RUSH, Illinois, *Chairman*

JAN SCHAKOWSKY, Illinois	ED WHITFIELD, Kentucky
<i>Vice Chairman</i>	CLIFF STEARNS, Florida
G.K. BUTTERFIELD, North Carolina	CHARLES W. “CHIP” PICKERING,
JOHN BARROW, Georgia	Mississippi
BARON P. HILL, Indiana	VITO FOSSELLA, New York
EDWARD J. MARKEY, Massachusetts	GEORGE RADANOVICH, California
RICK BOUCHER, Virginia	JOSEPH R. PITTS, Pennsylvania
EDOLPHUS TOWNS, New York	MARY BONO MACK, California
DIANA DeGETTE, Colorado	LEE TERRY, Nebraska
CHARLES A. GONZALEZ, Texas	SUE WILKINS MYRICK, North Carolina
MIKE ROSS, Arkansas	JOHN SULLIVAN, Oklahoma
DARLENE HOOLEY, Oregon	MICHAEL C. BURGESS, Texas
ANTHONY D. WEINER, New York	MARSHA BLACKBURN, Tennessee
JIM MATHESON, Utah	JOE BARTON, Texas ( <i>Ex Officio</i> )
CHARLIE MELANCON, Louisiana	
JOHN D. DINGELL, Michigan	
( <i>Ex Officio</i> )	

*Jurisdiction:* Interstate and foreign commerce, including all trade matters within the jurisdiction of the full committee; regulation of commercial practices (the FTC), including sports-related matters; consumer affairs and consumer protection, including privacy matters generally; consumer product safety (the CPSC); and product liability; and motor vehicle safety; and regulation of travel, tourism, and time.

## SUBCOMMITTEE ON ENERGY AND AIR QUALITY

(Ratio 18–15)

RICK BOUCHER, Virginia, *Chairman*

G.K. BUTTERFIELD, North Carolina	FRED UPTON, Michigan
<i>Vice Chairman</i>	RALPH M. HALL, Texas
CHARLIE MELANCON, Louisiana	ED WHITFIELD, Kentucky
JOHN BARROW, Georgia	JOHN SHIMKUS, Illinois
HENRY A. WAXMAN, California	JOHN B. SHADEGG, Arizona
EDWARD J. MARKEY, Massachusetts	CHARLES W. “CHIP” PICKERING,
MIKE DOYLE, Pennsylvania	Mississippi
JANE HARMAN, California	ROY BLUNT, Missouri
TOM ALLEN, Maine	MARY BONO MACK, California
CHARLES A. GONZALEZ, Texas	GREG WALDEN, Oregon
JAY INSLEE, Washington	MIKE ROGERS, Michigan
TAMMY BALDWIN, Wisconsin	SUE WILKINS MYRICK, North Carolina
MIKE ROSS, Arkansas	JOHN SULLIVAN, Oklahoma
DARLENE HOOLEY, Oregon	MICHAEL C. BURGESS, Texas
ANTHONY D. WEINER, New York	MARSHA BLACKBURN, Tennessee
JIM MATHESON, Utah	JOE BARTON, Texas ( <i>Ex Officio</i> )
DORIS O. MATSUI, California	
JOHN D. DINGELL, Michigan	
( <i>Ex Officio</i> )	

*Jurisdiction:* National energy policy generally; fossil energy, renewable energy resources and synthetic fuels; energy conservation; energy information; energy regulation and utilization; utility issues and regulation of nuclear facilities; interstate energy compacts; nuclear energy and waste; The Clean Air Act; and, all laws, programs, and government activities affecting such matters.

## SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

(Ratio 16–13)

GENE GREEN, Texas, *Chairman*

FRANK PALLONE, JR., New Jersey	JOHN B. SHADEGG, Arizona
BART STUPAK, Michigan	RALPH M. HALL, Texas
LOIS CAPPS, California	CLIFF STEARNS, Florida
TOM ALLEN, Maine	NATHAN DEAL, Georgia
HILDA L. SOLIS, California	HEATHER WILSON, New Mexico
<i>Vice Chairman</i>	VITO FOSSELLA, New York
TAMMY BALDWIN, Wisconsin	GEORGE RADANOVICH, California
G.K. BUTTERFIELD, North Carolina	JOSEPH R. PITTS, Pennsylvania
JOHN BARROW, Georgia	LEE TERRY, Nebraska
BARON P. HILL, Indiana	MIKE ROGERS, Michigan
DIANA DeGETTE, Colorado	JOHN SULLIVAN, Oklahoma
ANTHONY D. WIENER, New York	TIM MURPHY, Pennsylvania
HENRY A. WAXMAN, California	JOE BARTON, Texas ( <i>Ex Officio</i> )
JAN SCHAKOWSKY, Illinois	
DORIS O. MATSUI, California	
JOHN D. DINGELL, Michigan ( <i>Ex Officio</i> )	

*Jurisdiction:* Environmental protection in general, including the Safe Drinking Water Act and risk assessment matters; solid waste, hazardous waste and toxic substances, including Superfund and RCRA; mining, oil, gas, and coal combustion wastes; and, noise pollution control.

## SUBCOMMITTEE ON HEALTH

(Ratio 18–15)

FRANK PALLONE, JR., New Jersey, *Chairman*

HENRY A. WAXMAN, California	NATHAN DEAL, Georgia
EDOLPHUS TOWNS, New York	RALPH M. HALL, Texas
BART GORDON, Tennessee	BARBARA CUBIN, Wyoming
ANNA G. ESHOO, California	HEATHER WILSON, New Mexico
GENE GREEN, Texas	JOHN B. SHADEGG, Arizona
DIANA DeGETTE, Colorado	STEVE BUYER, Indiana
LOIS CAPPS, California	JOSEPH R. PITTS, Pennsylvania
<i>Vice Chairman</i>	MIKE FERGUSON, New Jersey
TOM ALLEN, Maine	MIKE ROGERS, Michigan
TAMMY BALDWIN, Wisconsin	SUE WILKINS MYRICK, North Carolina
ELIOT L. ENGEL, New York	JOHN SULLIVAN, Oklahoma
JAN SCHAKOWSKY, Illinois	TIM MURPHY, Pennsylvania
HILDA L. SOLIS, California	MICHAEL C. BURGESS, Texas
MIKE ROSS, Arkansas	MARSHA BLACKBURN, Tennessee
DARLENE HOOLEY, Oregon	JOE BARTON, Texas ( <i>Ex Officio</i> )
ANTHONY D. WIENER, New York	
JIM MATHESON, Utah	
JOHN D. DINGELL, Michigan ( <i>Ex Officio</i> )	

*Jurisdiction:* Public health and quarantine; hospital construction; mental health and research; biomedical programs and health protection in general, including Medicaid and national health insurance; food and drugs; and drug abuse.

## SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

(Ratio 9–7)

BART STUPAK, Michigan, *Chairman*

DIANA DeGETTE, Colorado	JOHN SHIMKUS, Illinois
CHARLIE MELANCON, Louisiana	ED WHITFIELD, Kentucky
<i>Vice Chairman</i>	GREG WALDEN, Oregon
HENRY A. WAXMAN, California	TIM MURPHY, Pennsylvania
GENE GREEN, Texas	MICHAEL C. BURGESS, Texas
MIKE DOYLE, Pennsylvania	MARSHA BLACKBURN, Tennessee
JAN SCHAKOWSKY, Illinois	JOE BARTON, Texas ( <i>Ex Officio</i> )
JAY INSLEE, Washington	
JOHN D. DINGELL, Michigan ( <i>Ex Officio</i> )	

*Jurisdiction:* Responsibility for oversight of agencies, departments, and programs within the jurisdiction of the full committee, and for conducting investigations within such jurisdiction.

## SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

(Ratio 18–15)

EDWARD J. MARKEY, Massachusetts, *Chairman*

MIKE DOYLE, Pennsylvania	CLIFF STEARNS, Florida
<i>Vice Chairman</i>	FRED UPTON, Michigan
JANE HARMAN, California	NATHAN DEAL, Georgia
CHARLES A. GONZALEZ, Texas	BARBARA CUBIN, Wyoming
JAY INSLEE, Washington	JOHN SHIMKUS, Illinois
BARON P. HILL, Indiana	HEATHER WILSON, New Mexico
RICK BOUCHER, Virginia	CHARLES W. “CHIP” PICKERING,
EDOLPHUS TOWNS, New York	Mississippi
FRANK PALLONE, Jr., New Jersey	VITO FOSSELLA, New York
BART GORDON, Tennessee	STEVE BUYER, Indiana
BOBBY L. RUSH, Illinois	GEORGE RADANOVICH, California
ANNA G. ESHOO, California	MARY BONO MACK, California
BART STUPAK, Michigan	GREG WALDEN, Oregon
ELIOT L. ENGEL, New York	LEE TERRY, Nebraska
GENE GREEN, Texas	MIKE FERGUSON, New Jersey
LOIS CAPPS, California	JOE BARTON, Texas ( <i>Ex Officio</i> )
HILDA L. SOLIS, California	
JOHN D. DINGELL, Michigan ( <i>Ex Officio</i> )	

*Jurisdiction:* Interstate and foreign telecommunications, including but not limited to all telecommunication and information transmission by broadcast, radio, wire, microwave, satellite, or other mode.

## COMMITTEE STAFF

DENNIS B. FITZGIBBONS, *Chief of Staff*  
 GREGG A. ROTHSCHILD, *Deputy Chief of Staff and Chief Counsel*  
 SHARON E. DAVIS, *Chief Clerk*  
 CAROLINE AHEARN, *Counsel/EHM*  
 JOHN ARLINGTON, *Senior Investigative Counsel*  
 JUDITH BAILEY, *Counsel/CTCP*  
 VALERIE BARON, *Legislative Clerk/CTCP*  
 ALEX BARRON, *Professional Staff Member/Climate and Energy*  
 KEVIN S. BARSTOW, *Investigative Counsel*  
 KRISTINE BLACKWOOD, *Investigative Counsel*  
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 LAUREN BLOOMBERG, *Assistant Press Secretary*  
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 SEAN CORCORAN, *Assistant Clerk/Records and Legislative Calendar*  
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 WALTER J. CROSS, *Technology Support Specialist*  
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 ANGELA E. DAVIS, *Assistant Clerk/Oversight and Investigations*  
 MATTHEW EISENBERG, *Staff Assistant*  
 LUKE ENTELIS, *Special Assistant*  
 ELIZABETH ERTEL, *Assistant Clerk*  
 CHRISTIAN TAMOTSU FJELD, *Policy Coordinator/CTCP*  
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 MILLS FORNI, *Press Assistant*  
 RICHARD A. FRANDSEN, *Chief Counsel for Environment*  
 BRIN FRAZIER, *Speechwriter/Deputy Communications Director*  
 WILLIAM GARNER, *Professional Staff Member*  
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 PETER GOODLOE, *Legislative Counsel*  
 KATHERINE GRAHAM, *Staff Assistant*  
 TIM GRONNIGER, *Professional Staff Member*  
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 BYRON GWINN, *Staff Assistant*  
 CAITLIN HABERMAN, *Staff Assistant*  
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 ALEX HAUREK, *Press Secretary*  
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 VONCILLE TROTTER HINES, *Assistant Investigator*  
 KARRIN HOESING, *Legislative Analyst/EHM*  
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 JOHN JIMISON, *Counsel/EAQ*  
 PURVEE KEMPF, *Counsel/Health Finance*  
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 CHRISTOPHER KNAUER, *Senior Investigator/Professional Staff Member*  
 AMY LEVINE, *Senior Counsel/Telecommunications and the Internet*  
 JESSICA A. McNIECE, *Professional Staff Member*  
 JACK MANIKO, *Counsel/Public Health*  
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 JOANNE ROYCE, *Investigative Counsel*  
 CAITLIN SANDERS, *Staff Assistant*  
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 DREW WALLACE, *Policy Coordinator/EHM*  
 EDDIE WALKER, *Network Engineer*  
 CONSUELA M. WASHINGTON, *Chief Counsel, CTCP*  
 ANDREW WOELFLING, *Professional Staff Member/CTCP*

DETAILEES FROM U.S. AGENCIES

BENJAMIN HENGST, *EPA*  
 PAUL JUNG, *HHS-PHS*  
 KENNETH MARTY, *HHH-OIG*  
 MARK G. SEIFERT, *FCC*  
 CALVIN WEBB, *ICE*  
 RICHARD WILFONG, *DHS*



COMMITTEE STAFF

DAVID L. CAVICKE, *Staff Director*  
LANCE KOTSCHWAR, *General Counsel/Chief Counsel for Commerce*  
HEATHER COURI, *Deputy Chief of Staff*  
LAWRENCE A. NEAL, *Deputy Chief of Staff for Communications*  
R. CLAYTON ALSPACH, *Counsel*  
MELISSA BARTLETT, *Counsel*  
WILLIAM CARTY, *Professional Staff Member*  
KAREN E. CHRISTIAN, *Counsel*  
BRANDON J. CLARK, *Policy Coordinator*  
JEAN COLSANT, *Director of Information Technology*  
SAMUEL COSTELLO, *Staff Assistant*  
GERALD COURI, *Policy Coordinator*  
WHITNEY DREW, *Special Assistant*  
NEIL R. FRIED, *Senior Counsel*  
GARRETT J. GOLDING, *Legislative Analyst*  
CHAD GRANT, *Legislative Analyst*  
PETER E. KIELTY, *Legislative Analyst*  
KEVIN KOHL, *Special Assistant*  
RYAN LONG, *Chief Counsel*  
BRIAN MCCULLOUGH, *Professional Staff Member*  
AMANDA MERTENS CAMPBELL, *Counsel*  
LISA MILLER, *Deputy Communications Director*  
ANH NGUYEN, *Legislative Clerk*  
WILLIAM D. O'BRIEN, *Legislative Analyst for Health Policy*  
COURTNEY ANDERSON REINHARD, *Counsel*  
KRISTA CARPENTER ROSENTHALL, *Counsel*  
AARTI SHAH, *Counsel*  
ALAN M. SLOBODIN, *Chief Counsel*  
PETER SPENCER, *Professional Staff Member*  
LINDA WALKER, *Administrative & Human Resources Coordinator*  
SHANNON WEINBERG, *Counsel*



## LEGISLATIVE AND OVERSIGHT ACTIVITY OF THE COMMITTEE

### SUMMARY

The full Committee and its six subcommittees were extremely active during the 110th Congress and had a significant record of achievement. Of the 1,531 bills referred to the Committee, 58 measures became public law as a result of the Committee's work. The full Committee and its subcommittees held a combined total of 170 days of hearings and 47 markups.

Key accomplishments include crafting legislation that will:

- Remove more than 10 billion tons of carbon dioxide from the atmosphere by 2030 as a result of improved energy efficiency standards, expand use of biofuels, and increase motor vehicle fuel economy.
- Ban lead in children's products and prohibit the use of dangerous phthalates in toys and child care articles.
- Strengthen the Consumer Product Safety Commission by providing it with significantly greater resources and personnel.
- Ensure that 44 million Medicare beneficiaries can continue to see the doctors they know and trust by blocking a 10 percent pay cut for physicians who serve them.
- Improve the safety of prescription drugs by creating a new FDA program to monitor drugs after they are on the market, increase the penalties for drug companies that violate safety standards, and impose stricter conflict-of-interest provisions.
- Protect States and 55 million Medicaid beneficiaries by preventing damaging new regulations issued by the Administration that would slash Medicaid funding by \$18 billion.
- Ban discrimination based on genetic information by prohibiting health insurance companies and employers from discriminating against people on the basis of genetic test results.
- Provide healthcare coverage for 10 million children by renewing and improving the State Children's Health Insurance Program (SCHIP).
- Strengthen Medicare by enhancing prevention and mental health benefits, creating and extending programs for low-income Medicare beneficiaries, and improving access to care for rural seniors.
- Strengthen environmental protections and improve air quality by removing elemental mercury from our environment.
- Improve public safety by ensuring that consumers using Internet-based phone services can access 911 emergency services.

In perhaps its most complex legislative effort in the 110th Congress, the Committee worked on the development of comprehensive climate change legislation with the goal of reducing our Nation's greenhouse gas emissions by 60 to 80 percent by the year 2050

without putting our economy at a disadvantage. To this end, more than 20 hearings were held; perspectives from scores of industry groups, non-governmental organizations and labor unions were collected; and a series of White Papers focusing on elements of the climate change problem in need of further discussion were produced. On October 7, 2008, after nearly two years of intensive work, the discussion draft of climate change legislation was released.

One of the most significant shortfalls of the 110th Congress was the presidential veto of the Children's Health Insurance Program reauthorization legislation, and the subsequent failure of the House to override that veto.

The Committee's oversight and investigative efforts were as robust as its legislative endeavors in all areas of its jurisdiction—ranging from drug and food safety to currency manipulation and energy speculation.

The environment continued to be a major concern of the Committee through vigorous oversight of existing environmental laws and regulation as well as specific examinations of carbon sequestration; Superfund cleanups (including the significant slowdown of cleanups at highly contaminated sites in the years since 2000); the Environmental Protection Agency's Office of Inspector General proposed buyout of employees and office closings; and concentrated animal feeding operations.

The work of the six subcommittees is detailed in the pages following the list of hearings held by the full Committee.

#### HEARINGS HELD

*A Review of the Department of Health and Human Services Fiscal Year 2008 Budget*—Oversight hearing on the Department of Health and Human Services Fiscal Year 2008 Budget. Hearing held on February 6, 2007. PRINTED, Serial Number 110–2.

*Department of Energy's Budget for Fiscal Year 2008*—Oversight hearing on the Department of Energy's Fiscal Year 2008 budget. Hearing held on February 8, 2007. PRINTED, Serial Number 110–3.

*Combating Pretexting: H.R. 936, the "Prevention of Fraudulent Access to Phone Records Act"*—Hearing on H.R. 936, the "Prevention of Fraudulent Access to Phone Records Act." Hearing held on March 9, 2007. PRINTED, Serial Number 110–16.

*Department of Energy's Fiscal Year 2009 Budget Proposal*—Oversight hearing on the Department of Energy's budget proposal for fiscal year 2009. Hearing held on February 7, 2008. PRINTED, Serial Number 110–86.

*A Review of the Department of Health and Human Services Fiscal Year 2009 Budget*—Oversight hearing on the Department of Health and Human Services budget proposal for fiscal year 2009. Hearing held on February 28, 2008. PRINTED, Serial Number 110–90.

*Department of Commerce Fiscal Year 2009 Budget*—Oversight hearing on the Department of Commerce budget proposal for fiscal year 2009. Hearing held on March 13, 2008. PRINTED, Serial Number 110–94.

SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION

LEGISLATIVE ACTIVITIES

VIRGINIA GRAEME BAKER POOL AND SPA SAFETY ACT

Public Law 110–140, Title XIV—Pool and Spa Safety (H.R. 6, H.R. 1721, S. 1771)

To increase the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems, by establishing a swimming pool safety grant program administered by the Consumer Product Safety Commission to encourage States to improve their pool and spa safety laws, and to educate the public about pool and spa safety.

*Summary*

H.R. 1721 increases the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems. H.R. 1721 also establishes a swimming pool safety grant program, authorized at \$2 million annually (as enacted as part of H.R. 6) for five years, administered by the Consumer Product Safety Commission (CPSC) to encourage States to pass comprehensive swimming pool and spa safety laws that require layers of protection against childhood drowning, including specified barriers, anti-entrapment drains, and safety vacuum releases. Further, H.R. 1721 requires CPSC to develop a national education program to prevent drowning and entrapment in swimming pools, spas, and ornamental pools, authorized at \$5 million annually for five years. Finally, H.R. 1721 requires the CPSC to report to Congress on the effectiveness of the grant program for all applicable fiscal years.

*Legislative History*

H.R. 1721 was introduced on March 27, 2007, by Representative Wasserman Schultz and referred to the Committee on Energy and Commerce. On March 28, 2007, H.R. 1721 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On June 6, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on four bills intended to increase the safety of consumer products intended for children, including H.R. 1721. The invited witnesses included The Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission (submitting written testimony only); Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group; and Sally Greenberg, Senior Product Safety Counsel, Consumers Union.

On July 31, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and approved

H.R. 1721 for full Committee consideration, amended, by a voice vote.

On September 27, 2007, the full Committee met in open markup session and H.R. 1721 was ordered favorably reported to the House, as amended, by a voice vote, a quorum being present.

On October 9, 2007, the Committee on Energy and Commerce reported H.R. 1721 to the House, amended (H. Rept. 110–365).

On October 9, 2007, H.R. 1721 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On October 15, 2007, H.R. 1721 was received in the Senate, read twice, and placed on the Senate Legislative Calendar under general orders.

On December 13, 2007, the text of H.R. 1721 and S. 1771 (companion Senate legislation), as amended, was included as title XIV of H.R. 6, the Energy Independence and Security Act of 2007, which was passed by the Senate.

On December 18, 2007, the House agreed to the Senate amendment to the House amendments to the Senate amendments to H.R. 6, containing the provisions of H.R. 1721 and S. 1771, by a rollcall vote: 314–100. This action cleared H.R. 6 for the White House.

On December 19, 2007, H.R. 6, containing provisions of H.R. 1721 and S. 1771, was signed by the President (Public Law 110–140).

#### DO-NOT-CALL IMPROVEMENT ACT OF 2007

##### Public Law 110–187 (H.R. 3541)

To amend the Do-Not-Call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal Do-Not-Call registry.

##### *Summary*

H.R. 3541 amends the Do-Not-Call Implementation Act to prohibit the Federal Trade Commission (FTC) from removing phone numbers from its Do-Not-Call registry, except upon request of the person to whom the number is assigned or upon narrow circumstances keyed to keeping the list accurate. The registry contains a list of consumers that telemarketers are prohibited from calling. When the registry was created in 2003, the FTC developed rules that required customers to re-register their telephone numbers every five years and required the FTC to remove disconnected numbers periodically. The bill requires the FTC to check periodically telephone numbers on the registry against appropriate databases and to remove invalid, disconnected, and reassigned numbers. Not later than nine months after enactment, the FTC is required to report to Congress on efforts taken to improve the accuracy of the registry.

##### *Legislative History*

On September 17, 2007, H.R. 3541 was introduced by Representative Doyle and referred to the Committee on Energy and Commerce. That same day, H.R. 3541 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On October 30, 2007, the full Committee met in open markup session and H.R. 3541 was ordered favorably reported to the House, amended, by a voice vote.

On December 11, 2007, the Committee on Energy and Commerce reported H.R. 3541 to the House, amended (H. Rept. 110–486).

On December 11, 2007, H.R. 3541 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On December 12, 2007, H.R. 3541 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

On February 6, 2008, H.R. 3541 was discharged from the Committee on Commerce, Science, and Transportation by unanimous consent, and passed the Senate, without amendment, by unanimous consent, clearing H.R. 3541 for the White House.

On February 12, 2008, H.R. 3541 was presented to the President and was signed by the President on February 15, 2008 (Public Law 110–187).

#### DO-NOT-CALL REGISTRY FEE EXTENSION ACT OF 2007

#### Public Law 110–188 (S. 781, H.R. 2601)

To amend the Do-Not-Call Implementation Act to extend the authority of the Federal Trade Commission to collect fees to administer and enforce the provisions relating to the Do-Not-Call registry of the Telemarketing Sales Rule.

#### *Summary*

H.R. 2601 amends the Do-Not-Call Implementation Act to authorize the Federal Trade Commission (FTC) to continue to collect and spend fees to operate the national Do-Not-Call registry and enforce the Telemarketing Sales Rule, contingent on approval of the fees in annual appropriations acts. The authority to collect those fees expired at the end of fiscal year 2007. The bill also requires the FTC to prepare two reports about the use and effectiveness of the registry.

#### *Legislative History*

H.R. 2601 was introduced on June 6, 2007, by Representative Stearns and referred to the Committee on Energy and Commerce. That same day, H.R. 2601 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On October 23, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 2601. The sole witness was the Director of the FTC's Bureau of Consumer Protection. After conclusion of the hearing, the Subcommittee met in open markup session to consider H.R. 2601, and the bill was forwarded to the full Committee, amended, by a voice vote.

On October 30, 2007, the full met in open markup session and H.R. 2601 was ordered favorably reported to the House, amended, by a voice vote.

On December 11, 2007, the Committee on Energy and Commerce reported H.R. 2601 to the House, amended (H. Rept. 110–485).

On December 11, 2007, H.R. 2601 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On December 12, 2007, H.R. 2601 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

On December 12, 2007, the Committee on Commerce, Science, and Transportation reported substantially similar legislation, S. 781, to the Senate, amended (S. Rept. 110–244).

On December 17, 2007, S. 781 passed the Senate, amended, by unanimous consent.

On February 6, 2008, S. 781 was considered in the House under suspension of the rules and passed by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

On February 13, 2008, S. 781 was presented to the President; and on February 15, 2008, the President signed S. 781 (Public Law 110–188).

#### CHILDREN’S GASOLINE BURN PREVENTION ACT

#### Public Law 110–278 (H.R. 814)

To require the Consumer Product Safety Commission to issue regulations mandating child-resistant closures on all portable gasoline containers.

#### *Summary*

H.R. 814 requires the same child-resistant caps for all gasoline containers, whether sold with or without gasoline. The legislation directs the Consumer Product Safety Commission (CPSC) to issue regulations mandating child-resistant closures on all portable gasoline containers, and provides that any revisions to the applicable child resistance requirements proposed by ASTM International shall be incorporated in the consumer product safety rule, unless the CPSC determines within 60 days that such revisions do not meet the purpose of this legislation. H.R. 814 also requires the CPSC to report to Congress two years after enactment of the legislation on compliance by industry, agency enforcement actions, and any reported incidents involving children and portable gasoline cans.

#### *Legislative History*

On February 5, 2007, H.R. 814 was introduced by Representative Moore and referred to the Committee on Energy and Commerce. On February 6, 2007, H.R. 814 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On June 6, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on four bills intended to increase the safety of consumer products intended for children, including H.R. 814. The invited witnesses included The Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission (submitting written testimony only); Edmund Mierzewski, Consumer Program Director, United States Public Interest Re-



search Group; and Sally Greenberg, Senior Product Safety Counsel, Consumers Union.

On July 31, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H.R. 814, amended, to the full Committee, by a voice vote.

On September 27, 2007, the full Committee met in open markup session and H.R. 814 was ordered favorably reported to the House, as amended, by a voice vote.

On October 9, 2007, the Committee on Energy and Commerce reported H.R. 814 to the House, as amended (H. Rept. 110–367).

On October 9, 2007, H.R. 814 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On October 15, 2007, H.R. 814 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Technology.

On June 16, 2008, H.R. 814 was discharged from the Senate Committee on Commerce, Science, and Transportation by unanimous consent, and passed the Senate without amendment by unanimous consent. This action cleared the measure for the White House.

On July 7, 2008, H.R. 814 was presented to the President, who signed it into law on July 17, 2008 (Public Law 110–278).

#### DANNY KEYSAR CHILD PRODUCT SAFETY NOTIFICATION ACT

Public Law 110–314 (H.R. 1699, H.R. 4040)

To direct the Consumer Product Safety Commission to require certain manufacturers to provide consumer product registration forms to facilitate recalls of durable infant and toddler products.

#### *Summary*

H.R. 1699 requires the Consumer Product Safety Commission (CPSC) to promulgate a rule requiring manufacturers of a defined list of 12 durable infant and toddler products (including cribs, high chairs, bath seats, play yards, strollers, walkers, and swings) to: (1) provide postage-paid, privacy-protected registration cards with each product for consumer registration by mail or via the internet; (2) maintain a database of consumer-provided contact information; and (3) permanently place manufacturer contact and model information on each product sold as practicable. H.R. 1699 also requires the CPSC to conduct a study and report to Congress within four years after the date of enactment on the effectiveness of the registration forms in facilitating recalls.

#### *Legislative History*

On March 26, 2007, H.R. 1699 was introduced by Representative Schakowsky and referred to the Committee on Energy and Commerce. On March 27, 2007, H.R. 1699 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On June 6, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on four bills intended to increase the safety of consumer products intended for children, including H.R. 1699. The invited witnesses included The Honorable

Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission (submitting written testimony only); Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group; and Sally Greenberg, Senior Product Safety Counsel, Consumers Union.

On July 31, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H.R. 1699, amended, to the full Committee, by a voice vote.

On September 27, 2007, the full Committee met in open markup session and H.R. 1699 was ordered favorably reported to the House, as amended, by a voice vote.

On October 9, 2007, the Committee on Energy and Commerce reported H.R. 1699 to the House, amended (H. Rept. 110-366).

On October 9, 2007, H.R. 1699 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On October 15, 2007, H.R. 1699 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

On December 19, 2007, the Committee on Energy and Commerce reported H.R. 4040 to the House, amended, and included the provisions of H.R. 1699, as amended (H. Rept. 110-501).

On December 19, 2007, H.R. 4040, as amended, was considered in the House under suspension of the rules and passed by a rollcall vote: 407-0.

On July 30, 2008, the House agreed to the conference report to accompany H.R. 4040 (H. Rept. 110-787), which included in section 104 the provisions of H.R. 1699, as amended, under suspension of the rules by a rollcall vote: 424-1.

On July 31, 2008, the Senate agreed to the conference report to accompany H.R. 4040, containing the text of H.R. 1699, as amended, by a rollcall vote: 89-3. This action cleared H.R. 4040 for the White House.

On August 6, 2008, H.R. 4040 was presented to the President.

On August 14, 2008, H.R. 4040 was signed by the President (Public Law 110-314).

#### PRODUCT SAFETY CIVIL PENALTIES IMPROVEMENT ACT

#### Public Law 110-314 (H.R. 2474, H.R. 4040)

To provide for an increased maximum civil penalty for violations under the Consumer Product Safety Act.

#### *Summary*

H.R. 2474 amends the Consumer Product Safety Act, the Flammable Fabrics Act, and the Federal Hazardous Substances Act to increase the maximum civil penalties that the CPSC may assess for knowing product safety violations from the current level of \$1.825 million to (as enacted) \$15 million. H.R. 2474 also expands the factors that the CPSC must consider in assessing the amount of such penalty, including whether a violator is a recidivist or a first-time offender. As enacted, the increase would take effect on the date that is the earlier of one year after the effective date, or when the CPSC issues final regulations.

*Legislative History*

On May 24, 2007, H.R. 2474 was introduced by Representative Rush and referred to the Committee on Energy and Commerce. On June 5, 2007, H.R. 2474 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On June 6, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on four bills intended to increase the safety of consumer products intended for children or to improve consumer product safety enforcement generally, including H.R. 2474. The invited witnesses included The Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission (submitting written testimony only); Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group; and Sally Greenberg, Senior Product Safety Counsel, Consumers Union.

On July 31, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H.R. 2474, amended, to the full Committee, by a voice vote.

On September 27, 2007, the full Committee met in open markup session and H.R. 2474 was ordered favorably reported to the House, as amended, by a voice vote.

On October 9, 2007, the Committee on Energy and Commerce reported H.R. 2474 to the House, as amended (H. Rept. 110–364).

On October 9, 2007, H.R. 2474 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On October 15, 2007, H.R. 2474 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

On December 19, 2007, the Committee on Energy and Commerce reported H.R. 4040, as amended, to the House, and included the text of H.R. 2474, as amended (H. Rept. 110–501).

On December 19, 2007, H.R. 4040, as amended, was considered in the House under suspension of the rules and passed by a rollcall vote: 407–0.

On July 30, 2008, the House agreed to the conference report to accompany H.R. 4040 (H. Rept. 110–787), which included in section 217 the provisions of H.R. 2474, as amended, under suspension of the rules by a rollcall vote: 424–1.

On July 31, 2008, the Senate agreed to the conference report to accompany H.R. 4040, containing the text of H.R. 2474, as amended, by a rollcall vote: 89–3. This action cleared the measure for the White House.

On August 6, 2008, H.R. 4040 was presented to the President.

On August 14, 2008, was signed by the President (Public Law 110–314).

## CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008

## Public Law 110–314 (H.R. 4040, S. 2663)

To establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission.

### *Summary*

H.R. 4040, The Consumer Product Safety Improvement Act, as enacted, contains two titles.

Title I concerns children's product safety, and: (1) limits the amount of lead in children's products and lowers the amount of lead permitted in paint used on consumer products; (2) requires mandatory third-party testing for certain children's products and conformity assessment certifications for a broad range of consumer products covered by mandatory requirements; (3) mandates tracking labels for children's products; (4) imposes consumer registration and mandatory safety standards for certain nursery products; (5) requires cautionary statements for toys and games at direct points of sale; (6) requires mandatory safety standards for toys; (7) requires a study by the Government Accountability Office on preventable deaths and injuries to minority children from consumer products; and (8) permanently prohibits the sale of certain children's toys and products that contain certain phthalates (plastic softeners) and requires an interim prohibition on the sale of certain children's products that contain certain other phthalates until an examination and report have been conducted by a Chronic Hazard Advisory Panel.

Title II, Subtitle A concerns administrative improvements to reform the Consumer Product Safety Commission (CPSC) and: (1) reauthorizes the CPSC; (2) reinstates funding for five Commissioners and provides for a temporary quorum; (3) reinstates a requirement on the submission of certain documents; (4) provides for the option of expedited rulemaking; (5) requires the Inspector General to conduct certain audits and submit reports; (6) bans industry-sponsored travel by CPSC personnel; (7) permits CPSC sharing of information with other governmental agencies under certain circumstances; (8) permits CPSC employee exchanges with foreign governments; and (9) requires annual reports on recalls and their effectiveness.

Title II, Subtitle B concerns enhanced enforcement authority to reform the CPSC, and: (1) allows for greater public disclosure of information; (2) requires the establishment of a public consumer product safety database; (3) expands the prohibition against stockpiling; (4) enhances the CPSC's authority to recall unsafe consumer products and require specific corrective actions; (5) authorizes the CPSC to inspect certain conformity assessment bodies and require certain information about product supply chains; (6) amends the list of prohibited acts under consumer product safety laws; (7) increases maximum civil and criminal fines for violations of consumer product safety laws; (8) amends provisions permitting State Attorneys General to enforce specific provisions of Federal consumer product safety laws; and (9) extends whistleblower protection to employees of manufacturers, distributors, and retailers of consumer products.

Title II, Subtitle C concerns specific import-export provisions to reform the CPSC and: (1) expands prohibitions on the export of recalled and non-conforming products; (2) requires the CPSC to develop a methodology for risk assessment of imported products; (3) requires the CPSC to identify classes of products with characteristics that are likely to constitute substantial product hazards; (4) requires the CPSC to study and recommend to U.S. Customs and

Border Protections bond amounts to cover the cost of destruction for imported products; and (5) requires the CPSC to study and report on the effectiveness of its current authority to prevent the importation of unsafe consumer products.

Title II, Subtitle D contains miscellaneous provisions and: (1) clarifies provisions on preemption of other laws; (2) provides for mandatory standards for all-terrain vehicles; (3) clarifies that cost-benefit analysis is not required to establish standards under the Poison Prevention Packaging Act; (4) requires a study on the use of formaldehyde in the manufacture of certain articles; (5) defines terms, such as “children’s products” and makes conforming changes; (6) provides for expedited judicial review of certain standards or rules promulgated by the CPSC; (7) repeals section 30(d) of the Consumer Product Safety Act requiring certain findings; (8) makes technical amendments to the Pool and Spa Safety provision of the Energy Independence and Security Act (Public Law 110–140); and (9) provides for certain delayed effective dates and the severability of provisions.

#### *Legislative History*

H.R. 4040 was developed after a series of hearings related to issues involving consumer product safety, as follows:

On May 15, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled “Protecting Our Children: Current Issues in Children’s Product Safety.” Testimony was received from the Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission; Alan Korn, Public Policy Director and General Counsel, Safe Kids Worldwide; Rachel Weintraub, Director of Product Safety and Senior Counsel, Consumer Federation of America; Frederick Locker, Esq., Locker, Brainin & Greenberg, New York, NY; Marla Felcher, Ph.D., Adjunct Lecturer, Kennedy School of Government, Harvard University, and author, “It’s No Accident: How Corporations Sell Dangerous Baby Products” (Common Courage Press, 2001); James A. Thomas, President, ASTM International; Nancy A. Cowles, Executive Director, Kids in Danger.

On June 6, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled “Legislation to Improve Consumer Product Safety for Children: H.R. 2474, H.R. 1699, H.R. 814, and H.R. 1721.” Testimony was received from The Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission (submitting written testimony only); Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group; and Sally Greenberg, Senior Product Safety Counsel, Consumers Union.

On September 19 and 20, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a two-day hearing, entitled “Protecting Children from Lead-Tainted Imports.” Testimony was received from the Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission; The Honorable Thomas H. Moore, Commissioner, Consumer Product Safety Commission; Robert Eckert, President and Chief Executive Officer, Mattel, Inc.; Dana Best, M.D., M.P.H., Fellow, American Academy of Pediatrics; Olivia D. Farrow, Esq., Assistant Commissioner, Division of Envi-

ronmental Health, City of Baltimore; Michael Green, Executive Director, Center for Environmental Health; Mary Teagarden, Professor of Global Strategy, Thunderbird School of Global Management; Lori Wallach, Director, Global Trade Watch; Gary E. Knell, Chief Executive Officer and President, Sesame Workshop; Carter Keithley, President, Toy Industry Association; Allen Thompson, Vice President for Global Supply Chain Management, Retail Industry Leaders Association; Michael Gale, Executive Director, Fashion Jewelry Trade Association.

On November 1, 2007, H.R. 4040 was introduced by Representative Rush and referred to the Committee on Energy and Commerce. On November 2, 2007, H.R. 4040 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On November 6, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 4040, entitled, "Comprehensive Children's Product Safety and Consumer Product Safety Commission Reform Legislation." Testimony was received from the Honorable Nancy A. Nord, Acting Chairman, Consumer Product Safety Commission; The Honorable Thomas H. Moore, Commissioner, Consumer Product Safety Commission; Kathrin Belliveau, Managing Attorney, Commercial and Global Operations, Hasbro, Inc.; Dana Best, M.D., M.P.H., Fellow, American Academy of Pediatrics; Lane Hallenbeck, Vice President, Accreditation Services, American National Standards Institute (ANSI); Alan Korn, Public Policy Director and General Counsel, Safe Kids Worldwide; Joseph M. McGuire, President, Association of Home Appliance Manufacturers (AHAM), testifying on behalf of the National Association of Manufacturers (NAM); and Rachel Weintraub, Director of Product Safety and Senior Counsel, Consumer Federation of America.

On November 15, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H.R. 4040, amended, to the full Committee, by a voice vote.

On December 13, 2007, the full Committee met in open markup session and began consideration of H.R. 4040.

On December 18, 2007, the full Committee again met in open markup session and H.R. 4040 was ordered favorably reported to the House, amended, by a rollcall vote: 51-0.

On December 19, 2007, the bill was reported to the House, amended (H. Rept. 110-501). That same day, H.R. 4040, as amended, was considered in the House under suspension of the rules and passed by a rollcall vote: 407-0.

On December 19, 2007, H.R. 4040 was received in the Senate and read for the first time and placed on Senate Legislative Calendar.

On March 6, 2008, H.R. 4040 was laid before the Senate by unanimous consent. During consideration, the Senate struck all after the enacting clause and substituted the language of S. 2663, as amended. H.R. 4040 then passed by the Senate, amended, by a rollcall vote: 79-13.

On April 29, 2008, the Senate insisted on its amendment, requested a conference, and appointed conferees: Senators Inouye, Pryor, Boxer, Klobuchar, Stevens, Hutchison, and Sununu.

On May 14, 2008, the Dingell motion that the House disagree to the Senate amendment, and agree to a conference, was agreed to without objection. The Whitfield motion that the House instruct the managers on the part of the House to insist upon the provisions contained in the House bill, was agreed to by a rollcall vote: 405–0. The Speaker appointed as conferees Representatives Dingell, Waxman, Rush, DeGette, Schakowsky, Barton (TX), Whitfield (KY), and Stearns.

On June 24, 2008, the Kirk motion to instruct conferees to insist on the provisions contained in the House bill with regard to the definition of “children’s product” was adopted by a rollcall vote: 415–0.

The conference committee met on June 25 and July 17, 2008.

On July 29, 2008, the conference report to accompany H.R. 4040 was filed (H. Rept. 110–787).

On July 30, 2008, the conference report to accompany H.R. 4040 was considered by the House and adopted by a rollcall vote: 424–1.

On July 31, 2008, the Senate agreed to the conference report to accompany H.R. 4040 by a rollcall vote: 89–3, clearing the measure for the White House.

On August 6, 2008, H.R. 4040 was presented to the President.

On August 14, 2008, the President signed H.R. 4040 (Public Law 110–314).

SAFEGUARDING AMERICA’S FAMILIES BY ENHANCING AND REORGANIZING NEW AND EFFICIENT TECHNOLOGIES ACT (SAFER NET ACT)

Public Law 110–385 (S. 1492, H.R. 3461)

To require the Federal Trade Commission to carry out a nationwide public awareness campaign regarding Internet safety.

*Summary*

H.R. 3461 requires the Federal Trade Commission (FTC) to carry out a nationwide program to increase public awareness and education regarding Internet safety.

The bill also requires the FTC to submit a report to Congress not later than March 31 of each year on its activity to promote Internet safety. The bill, as amended, authorizes \$5 million for one year to carry out the public awareness campaign. Finally, the bill establishes a working group through the National Telecommunications and Information Administration to review and evaluate industry efforts to promote online safety and protect children from inappropriate material online.

*Legislative History*

On August 4, 2007, H.R. 3461 was introduced by Representative Bean and referred to the Committee on Energy and Commerce. On August 4, 2007, the bill was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On October 23, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 3461. The sole witness was the Director of the FTC’s Bureau of Consumer Protection. After conclusion of the hearing, the Subcommittee met in open

markup session to consider H.R. 3461; and the bill was forwarded to the full Committee, amended, by a voice vote.

On October 30, 2007, the full Committee met in open markup session and H.R. 3461 was ordered favorably reported to the House, amended, by a voice vote.

On November 13, 2007, H.R. 3461 was considered in the House under suspension of the rules and passed, as amended, by a rollcall vote: 398–6.

On November 14, 2007, H.R. 3461 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

On September 26, 2008, S. 1492, with an amendment in the nature of a substitute reported by the Committee on Commerce, Science, and Transportation, was laid before the Senate; it then passed the Senate, amended, by unanimous consent. As amended, Title I consists of the text of the Broadband Data Improvement Act. Title II includes the provisions of H.R. 3461.

On September 27, 2008, S. 1492 was received in the House, and referred to the Committee on Energy and Commerce.

On September 29, 2008, S. 1492 was discharged from the Committee on Energy and Commerce, and passed the House, amended, by unanimous consent.

On September 30, 2008, the Senate agreed to the House amendments by unanimous consent, clearing S. 1492 for the White House.

On October 2, 2008, S. 1492 was presented to the President.

On October 10, 2008, the President signed S. 1492 (Public Law 110–385).

#### SOCIAL SECURITY NUMBER PROTECTION ACT OF 2007

#### (H.R. 948)

To strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of Social Security numbers and Social Security account numbers, and for other purposes.

#### *Summary*

H.R. 948 protects consumers by prohibiting the public display and the purchase and sale of Social Security numbers in interstate commerce to prevent the use of such numbers to commit fraud, deception, or crime, and prevent risk of bodily, emotional, or financial harm to individuals. The bill makes it unlawful to intentionally display Social Security numbers on a Web site or to provide access thereto through the Internet, to display Social Security numbers on membership or identity cards, or to require customers to use Social Security numbers as passwords for access to any goods or services, account, or protected access Web site. The legislation also requires the Federal Trade Commission (FTC) to promulgate rules within one year, after consultation with the Attorney General and Commissioner of Social Security, restricting the sale and purchase of Social Security numbers and defining unfair or deceptive acts or practices related to the sale and purchase of Social Security numbers. H.R. 948 requires the FTC regulations to include exceptions



for certain enumerated purposes such as law enforcement, emergencies, and public health.

#### *Legislative History*

On February 8, 2007, H.R. 948 was introduced by Representative Markey. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On February 9, 2007, H.R. 948 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On May 11, 2006, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 1078, substantially similar legislation considered in the 109th Congress.

On May 10, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection was discharged from further consideration of H.R. 948, and the full Committee met in open markup session to consider the measure. H.R. 948 was ordered favorably reported to the House, amended, by a voice vote.

On June 13, 2007, the Committee on Energy and Commerce reported H.R. 948 to the House, amended (H. Rept. 110–191, Part 1).

On June 13, 2007 and subsequently, the Committee on Ways and Means was granted a series of extensions for further consideration ending not later than January 3, 2009.

No further action was taken on H.R. 948 in the 110th Congress.

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT (SPY ACT)

(H.R. 964)

To protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

#### *Summary*

H.R. 964, the Securely Protect Yourself Against Cyber Trespass Act, or SPY ACT, makes it unlawful for any person who is not the owner or authorized user of a protected computer to engage in unfair or deceptive acts or practices in connection with specified conduct, including: (1) taking unsolicited control of the computer; (2) modifying computer settings; (3) collecting personally identifiable information; (4) inducing the owner or authorized user to disclose personally identifiable information; (5) inducing the unsolicited installation of computer software; and (6) removing or disabling a security, anti-spyware, or anti-virus technology.

Further, H.R. 964 makes it unlawful for a person to: (1) transmit to a protected computer any information collection program (a program that collects personally identifiable information and uses the information to send advertising), unless such program provides notice required by the SPY ACT before execution of any of the program's collection functions; or (2) execute any collection information program installed on a protected computer unless, before execution, the user has consented to such execution under bill's notice re-

quirements. The SPY ACT provides exceptions with respect to: (1) Web pages visited within a particular Web site and (2) in the case of any Internet-based search functions, user-supplied search terms necessary to complete the search and return results to the user, when the information collected is sent only to the provider of the Web site accessed or Internet-based search function.

The bill provides for enforcement by the Federal Trade Commission (FTC) of violations of the SPY ACT as unfair or deceptive acts or practices under the Federal Trade Commission Act. It also makes the SPY ACT inapplicable with respect to: (1) law enforcement actions; (2) monitoring undertaken for network security; (3) Good Samaritan actions (actions taken in good faith, and with the user's consent, by a computer software or service provider to remove or disable a program which violates the SPY ACT); (4) certain third party branded computer software; and (5) certain services provided by cable operators and satellite carriers.

H.R. 964 directs the FTC to report to Congress regarding: (1) the applicability of the information collection prohibitions to information that is input directly by users in a field provided on a Web site; (2) the use of computer tracking cookies in the delivery or display of advertising to computer owners and users; and (3) information collection programs installed before the effective date of the SPY ACT. The bill becomes effective 12 months after its enactment, and is inapplicable after December 31, 2013.

#### *Legislative History*

On February 8, 2007, H.R. 964 was introduced by Representative Towns and referred to the Committee on Energy and Commerce. On February 9, 2007, H.R. 964 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On March 15, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 964. Testimony was received from two technology companies, an online-marketing trade association, and two nonprofit organizations that promote online privacy.

On April 19, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session to consider H.R. 964, and the bill was forwarded to the full Committee, amended, by a voice vote.

On May 10, 2007, the full Committee met in open markup session and H.R. 964 was ordered favorably reported to the House, amended, by a voice vote.

On May 24, 2007, the Committee on Energy and Commerce reported H.R. 964 to the House, amended (H. Rept. 110-169).

On June 6, 2007, H.R. 964 was considered in the House under suspension of the rules and passed, as amended, by a rollcall vote: 368-48.

On June 7, 2007, H.R. 964 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 964 in the 110th Congress.

## CALL CENTER CONSUMER'S RIGHT TO KNOW ACT

(H.R. 1776)

To require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees.

*Summary*

H.R. 1776 requires every call center employee, when initiating or receiving phone calls, to identify the physical location of the employee at the beginning of the call. The bill further requires companies that utilize call centers to certify their compliance with the Federal Trade Commission (FTC). H.R. 1776 directs the Commission to prescribe rules providing for effective monitoring and compliance with the Act, including the imposition of appropriate civil penalties.

*Legislative History*

On March 29, 2007, H.R. 1776 was introduced by Representative Altmire and referred to the Committee on Energy and Commerce. On March 30, 2007, H.R. 1776 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On September 11, 2008, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 1776. The Subcommittee heard testimony from the FTC, the Communications Workers of America, the American Teleservices Association, and an academic specializing in the call center industry.

No further action was taken on H.R. 1776 in the 110th Congress.

## PROTECTING CONSUMER ACCESS TO GENERIC DRUGS ACT OF 2007

(H.R. 1902)

To prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market, and for other purposes.

*Summary*

H.R. 1902 prohibits drug patent legal settlements in which a generic company receives payment or value from a brand-name drug company in exchange for an agreement not to research, develop, manufacture, market, or sell the generic drug. The bill provides for exceptions to this prohibition and does not affect any other type of drug patent settlement. Such violations are treated as an unfair and deceptive act or practice and as an unfair method of competition as prohibited under Section 5 of the Federal Trade Commission Act. H.R. 1902 further establishes new triggers for the "failure to market" forfeiture of the 180-day exclusivity period under the Federal, Food, Drug, and Cosmetic Act.

*Legislative History*

On April 17, 2007, H.R. 1902 was introduced by Mr. Rush. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration

of such provisions as fall within the jurisdiction of the committee concerned.

On April 18, 2007, H.R. 1902 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On May 2, 2007, the Subcommittee held a hearing on H.R. 1902. The Subcommittee received testimony from the Federal Trade Commission, a consumer group, two generic drug companies, an academic, and a prominent lawyer specializing in intellectual property law.

No further action was taken on H.R. 1902 in the 110th Congress.

#### TRAVEL PROMOTION ACT OF 2008

(H.R. 3232, S. 1661)

To establish a non-profit corporation to communicate United States entry policies and otherwise promote tourist, business, and scholarly travel to the United States.

#### *Summary*

H.R. 3232 establishes the Corporation for Travel Promotion (Corporation) as a nonprofit corporation within the District of Columbia. The Corporation is required to provide information to people interested in traveling to the United States, identify and address perceptions in other countries regarding U.S. entry policies, and promote U.S. travel. The bill establishes within the Treasury the Travel Promotion Fund, which is funded by user fees from an automated electronic travel authorization system, should one be implemented. These fees, in addition to voluntary matching contributions from the private sector, are intended to fund the Corporation, which is authorized to borrow an amount not to exceed \$10 million from the Treasury to fund its first-year expenses and activities. For subsequent years through 2013 the Secretary of the Treasury must transfer to the Fund not more than \$100 million which shall be available to the Corporation subject to the conditions set forth in the legislation.

H.R. 3232 also amends the International Travel Act of 1961 to replace certain references to the United States National Tourism Organization with references to the Corporation, as well as modifies various requirements applicable to the Tourism Policy Council. Finally, the bill amends the Department of Commerce and Related Agencies Appropriations Act of 2003 to remove provisions establishing the United States Travel and Tourism Promotion Advisory Board.

#### *Legislative History*

On July 31, 2007, H.R. 3232 was introduced by Mr. Delahunt. It was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. That same day, H.R. 3232 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On September 11, 2008, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 3232. The two witnesses present were the Travel Industry Association's senior vice president for public affairs and the director of East Carolina University's Center for Sustainable Tourism. The Subcommittee requested witnesses from the Department of Commerce and the Department of the Treasury; both departments instead submitted written testimony for the record.

On September 16, 2008, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session to consider H.R. 3232, and the bill was forwarded to the full Committee, amended, by a voice vote.

On September 23, 2008, the full Committee met in open markup session and H.R. 3232 was ordered favorably reported to the House, amended, by a voice vote.

On September 25, 2008, H.R. 3232 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On September 26, 2008, H.R. 3232 was received in the Senate.

On October 2, 2008, H.R. 3232 was read twice and placed on the Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 3232 in the 110th Congress.

#### CALLING CARD CONSUMER PROTECTION ACT

(H.R. 3402)

To require accurate and reasonable disclosure of the terms and conditions of prepaid telephone calling cards and services.

#### *Summary*

H.R. 3402, as passed, requires clear and conscious disclosure of all critical terms of prepaid calling cards, including the name of the provider and a customer service telephone number, the dollar value of the card, the number of available minutes, the per-minute rate, all applicable fees, and any expiration date. It provides that any violation of these requirements shall be considered violations of a rule defining unfair or deceptive acts or practices under the Federal Trade Commission Act, mandates a rulemaking by the Federal Trade Commission to issue regulations to carry out this legislation, and provides for enforcement by the Federal Trade Commission against common carriers and non-common carriers alike. It further provides for enforcement by State Attorneys General and certain other State authorities, and preempts State laws that prescribe disclosure requirements on prepaid calling cards. Finally, H.R. 3402 requires a study by the Government Accountability Office on the effectiveness of this legislation.

#### *Legislative History*

On August 3, 2007, H.R. 3402 was introduced by Representative Engel and referred to the Committee on Energy and Commerce. That same day, the bill was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On September 16, 2008, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 3402. The invited

witnesses included The Honorable William Kovacic, Chairman, Federal Trade Commission; Sally Greenberg, Executive Director, National Consumers League; Yvette Zaragoza, Small Business Manager, Latino Economic Development Corporation; Julia Marlowe, Professor Emeritus, University of Georgia; and John Eichberger, Vice President, Government Relations, National Association of Convenience Stores.

On, September 16, 2008, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H.R. 3402 to the full Committee by a voice vote.

On September 23, 2008, the full Committee met in open markup session and H.R. 3402 was ordered favorably reported to the House, amended, by a voice vote.

On September 25, 2008, H.R. 3402 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On October 2, 2008, H.R. 3402 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 3402 in the 110th Congress.

#### REGULATORY AUTHORITY OVER UNFAIR AND DECEPTIVE ACTS AND PRACTICES BY BANKS

(H.R. 3526)

To include all banking agencies within the existing regulatory authority under the Federal Trade Commission Act with respect to depository institutions, and for other purposes.

#### *Summary*

H.R. 3526 is intended to provide financial consumers with additional protections against unfair or deceptive acts or practices in or affecting commerce by expanding the range of financial regulators with authority to promulgate regulations defining with specificity and containing requirements for the purpose of preventing such acts or practices under the Federal Trade Commission Act (FTC Act). H.R. 3526 amends the FTC Act to expand the range of regulators with promulgation authority under Section 18(f) of the FTC Act (currently the Board of Governors of the Federal Reserve with respect to banks, the Office of Thrift Supervision with respect to savings and loan institutions, and the National Credit Union Administration (NCUA) with respect to Federal credit unions) to include the other Federal banking regulators, namely the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency with respect to institutions that they regulate.

The legislation requires these entities to prescribe any such regulations in consultation with the Federal Trade Commission (FTC), and that such regulations shall be prescribed jointly by such agencies to the extent practicable. H.R. 3526 also provides that, whenever the Federal banking agencies and NCUA commence rulemaking under the FTC Act for entities that they regulate, the FTC may promulgate consistent and comparable rules for the entities that it regulates. The legislation allows the FTC, in those instances, to use standard notice and comment rulemaking proce-

dures under the Administrative Procedure Act. Finally, the bill requires the Comptroller General to conduct a study and report to Congress on the status of regulations of the Federal banking agencies and the NCUA regarding unfair or deceptive acts or practices by depository institutions.

#### *Legislative History*

On June 13, 2007, the Committee on Financial Services held a hearing on the need for improved Federal consumer protection in financial services. Testimony was received from a Governor of the Federal Reserve Board, the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Chairman of the FTC, the Deputy Director of the Office of Thrift Supervision, the Attorney General of the State of Iowa, and the Commissioner of Banks for the Commonwealth of Massachusetts.

On July 25, 2007, the Committee on Financial Services held an additional hearing, and received testimony from three consumer groups and two industry representatives.

On September 14, 2007, H.R. 3526 was introduced by Representative Frank. It was referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 15, 2007, H.R. 3526 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On October 23, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 3526. The sole witness was the Director of the FTC's Bureau of Consumer Protection. After the conclusion of the hearing, the Subcommittee met in open markup session to consider H.R. 3526, and the bill was forwarded to the full Committee, amended, by a voice vote.

On October 30, 2007, the Committee on Energy and Commerce met in open markup session and H.R. 3526 was ordered favorably reported to the House, amended, by a voice vote.

On December 5, 2007, the Committee on Financial Services reported H.R. 3526 to the House (H. Rept. 110-472, Part 1).

On December 5, 2007, the Committee on Energy and Commerce reported H.R. 3526 to the House, amended (H. Rept. 110-472, Part 2).

On December 5, 2007, H.R. 3526 was considered in the House under suspension of the rules and passed, as amended, by a voice vote, two-thirds having voted in favor.

On December 6, 2007, H.R. 3526 was received in the Senate, read twice, and referred to the Committee on Banking, Housing, and Urban Affairs.

No further action was taken on H.R. 3526 in the 110th Congress.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL CONSUMER  
PROTECTION WEEK

(H. Res. 94)

*Summary*

H. Res. 94 expresses the support of the House of Representatives for the goals and ideals of the Ninth Annual National Consumer Protection Week, including raising public awareness about the importance of consumer protection. The resolution calls on the President to issue a proclamation calling upon Government and private sector organizations to provide citizens with information necessary to effectively protect themselves against consumer fraud, and encourage all citizens to take an active role in protecting their personal information.

*Legislative History*

On January 24, 2007, H. Res. 94 was introduced by Representative Hinojosa and referred to the Committee on Energy and Commerce. On February 2, 2007, H. Res. 94 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On February 5, 2007, H. Res. 94 was considered under suspension of the rules and passed the House, amended, by a rollcall vote: 398–0.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL INTERNET SAFETY  
MONTH

(H. Res. 455)

*Summary*

H. Res. 455 expresses the support of the House of Representatives for the goals and ideals of National Internet Safety Month, and commends and recognizes national and community organizations for promoting awareness of the dangers of the Internet and providing information and training regarding online safety.

*Legislative History*

On June 5, 2007, H. Res. 455 was introduced by Representative Bean and referred to the Committee on Energy and Commerce. That same day, H. Res. 455 was referred to the Subcommittee on Commerce, Trade, and Consumer Protection.

On June 12, 2007, H. Res. 455 was considered under suspension of the rules and passed the House, amended, by a voice vote, two-thirds having voted in favor.

OVERSIGHT ACTIVITIES

THE LACK OF DIVERSITY IN LEADERSHIP POSITIONS IN NCAA SPORTS

On February 28, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on The Lack of Diversity in Leadership Positions in NCAA Sports. The Subcommittee examined whether people of color have made progress in obtaining head coaching and athletic director positions in all levels of sports governed by the National Collegiate Athletic Association



(NCAA). The Subcommittee further examined the obstacles to and possible steps towards achieving greater diversity in leadership positions in NCAA sports. Witnesses included the NCAA, a prominent civil rights leader, an athletic director, an academician, the Black Coaches Association, and a prominent former college basketball coach.

#### CURRENCY MANIPULATION AND ITS EFFECTS ON U.S. BUSINESSES AND WORKERS

On May 9, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held a joint oversight hearing with the Ways and Means Subcommittee on Trade and the Financial Services Subcommittee on Domestic and International Monetary Policy, Trade, and Technology to consider whether, and to what extent, the Chinese renminbi (RMB) and the Japanese yen are undervalued as a result of foreign government intervention in the currency markets, as well as the immediate and long term impact an undervalued RMB or yen has on the economy of the United States. In addition, the three subcommittees examined potential actions the United States should take in order to address exchange rate manipulation. There were three panels of witnesses: one for economists, another for representatives of industry and labor organizations, and a third for Administration officials.

#### LEAD-TAINTED IMPORTED TOYS AND CHILDREN'S PRODUCTS

On August 22, 2007, Chairman Bobby L. Rush and Ranking Member Cliff Stearns of the Subcommittee on Commerce, Trade, and Consumer Protection sent comprehensive information requests to 19 companies that had imported, overwhelmingly from China, toys and other children's products that were recalled by the Consumer Products Safety Commission for unsafe levels of lead substrate or lead paint. Collectively, the 19 companies were responsible for 9 million children's products that had been recalled over approximately the previous nine months. The purpose of the letters was to gather detailed information on breakdowns in commercial and regulatory conditions surrounding the manufacture, importation, and safety of these products. This included the names and locations of the companies and facilities in China that manufactured the recalled products; the importers' legal agreements with Chinese or other manufacturers regarding the use of lead or lead paint; the steps taken by importers to test imported products before they were sent to retail outlets; how and when the violative lead levels were discovered, as well as when the CPSC was notified; the details of recall actions undertaken; and consumer responses to the recalls. On October 30, 2007, Chairman Rush and Ranking Member Stearns sent follow-up letters to four companies requesting clarifications and further details to the responses submitted to the original request letter. Information gleaned from responses to these letters informed the lead provisions of H.R. 4040, the Consumer Product Safety Improvement Act, signed by the President on August 14, 2008 (Public Law 110-314).

FROM IMUS TO INDUSTRY: THE BUSINESS OF STEREOTYPES AND  
DEGRADING IMAGES

On September 25, 2007, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on The Business of Stereotypes and Degrading Images. The Subcommittee examined how corporate media companies portray stereotypes of women and people of color and what effect such imagery has on American culture. The Subcommittee particularly focused on the commercial nature of such media portrayals, with emphasis on the business practices of the music and video game industries. Witnesses included top executives from the recording and video game industry, recording artists, and prominent academicians and civil rights activists.

DRUGS IN SPORTS: COMPROMISING THE HEALTH OF ATHLETES AND  
UNDERMINING THE INTEGRITY OF COMPETITION

On February 27, 2008, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on Drugs in Sports: Compromising the Health of Athletes and Undermining the Integrity of Competition. The Subcommittee examined the prevalence of performance enhancing drugs in professional sports in the wake of the release of the "Mitchell Report", the independent report by Senator George Mitchell commissioned by Major League Baseball, on the use of steroids and other performance enhancing drugs in professional baseball. Furthermore, the Subcommittee examined the drug policies implemented by various sports leagues and explored possible reforms and government initiatives to eliminate the use of performance enhancing drugs. Witnesses included the commissioners and player union executive directors of the four major professional sports leagues, the U.S. anti-doping agency, the U.S. Olympic Committee, the National Collegiate Athletics Association, the National Federation of State High School Associations, and the National Thoroughbred Racing Association.

SAFETY OF PHTHALATES AND BISPHENOL-A IN EVERYDAY CONSUMER  
PRODUCTS

On June 10, 2008, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing entitled "The Safety of Phthalates and Bisphenol-A in Everyday Consumer Products." Phthalates are a family of compounds used to soften certain plastics, while bisphenol-A is a building block of polycarbonate plastic and is often found in hard, clear plastic products. The Subcommittee examined the prevalence and potency of these chemicals in consumer products; the emerging science on the health effects from exposure to these chemicals, especially for infants and children; and government agency findings and activities concerning the effects of these chemicals on human health. Witnesses included scientists from four government agencies: the Consumer Product Safety Commission; the National Toxicology Program at the National Institutes of Health; the Food and Drug Administration; and the Environmental Protection Agency. Other witnesses represented industry (American Chemistry Council); State government (Department of Toxic Substances Control, the State of California); and con-

sumer advocacy groups (Science and Environmental Health Network and the Center for Health, Environment and Justice). A provision prohibiting the inclusion of certain phthalates in toys and other children's products was included in the conference report to H.R. 4040, the "Consumer Product Safety Improvement Act," which passed the House of Representatives on July 30, 2008, and was signed by the President on August 14, 2008 (Public Law 100-314).

BREEDING, DRUGS, AND BREAKDOWNS: THE STATE OF THOROUGHBRED HORSERACING AND THE WELFARE OF THE THOROUGHBRED RACEHORSE

On June 19, 2008, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on Breeding, Drugs, and Breakdowns: The State of Thoroughbred Horseracing and the Welfare of the Thoroughbred Racehorse. The Subcommittee examined commercial breeding practices, the prevalence of performance enhancing drugs, the safety of racetracks and other issues affecting the safety of jockeys and racehorses. The Subcommittee also examined the sport's regulatory framework that governs these issues and heard testimony on needed reforms. Witnesses included prominent breeders and owners, an ESPN analyst, the Jockey Club, the National Thoroughbred Racing Association, prominent equine veterinarians, and a racehorse retirement organization.

HEARINGS HELD

*The Lack of Diversity in Leadership Positions in NCAA Collegiate Sports.*—Hearing on the Lack of Diversity in Leadership Positions in NCAA Collegiate Sports. Hearing held on February 28, 2007. PRINTED, Serial No. 110-7.

*Combating Spyware: H.R. 964, the "SPY ACT".*—Hearing on Combating Spyware: H.R. 964, the "SPY ACT". Hearing held on March 15, 2007. PRINTED, Serial No. 110-21.

*H.R. 1902, the "Protecting Consumer Access to Generic Drugs Act of 2007".*—Hearing on H.R. 1902, the "Protecting Consumer Access to Generic Drugs Act of 2007". Hearing held on May 2, 2007. PRINTED, Serial No. 110-39.

*Currency Manipulation and Its Effects on American Business and Workers.*—Hearing on Currency Manipulation and Its Effects on American Business and Workers. Joint hearing held with the Committee on Financial Services Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, and the Committee on Ways and Means Subcommittee on Trade on May 9, 2007. PRINTED by the Committee on Ways and Means, Ways and Means Serial No. 110-38.

*Protecting Our Children: Current Issues in Children's Product Safety.*—Hearing on Protecting Our Children: Current Issues in Children's Product Safety. Hearing held on May 15, 2007. PRINTED, Serial No. 110-44.

*Legislation to Improve Consumer Product Safety for Children: H.R. 2474, H.R. 1699, H.R. 814, and H.R. 1721.*—Hearing on Legislation to Improve Consumer Product Safety for Children: H.R.

2474, H.R. 1699, H.R. 814, and H.R. 1721. Hearing held on June 6, 2007. PRINTED, Serial No. 110–52.

*Protecting Children from Lead-Tainted Imports.*—Hearing on Protecting Children from Lead-Tainted Imports. Hearings held September 19, 20, 2007. PRINTED, Serial No. 110–65.

*From Imus to Industry: The Business of Stereotypes and Degrading Images.*—Hearing on From Imus to Industry: The Business of Stereotypes and Degrading Images. Hearing held September 25, 2007. PRINTED, Serial No. 110–67.

*Enhancing FTC Consumer Protection in Financial Dealings, With Telemarketers, and on the Internet.*—Hearing on Enhancing FTC Consumer Protection in Financial Dealings, with Telemarketers, and on the Internet. Hearing held October 23, 2007. PRINTED, Serial No. 110–72.

*Comprehensive Children’s Product Safety and Consumer Product Safety Commission Reform Legislation.*—Hearing on children’s product safety and Consumer Product Safety Commission reform legislation. Hearing held November 6, 2007. PRINTED, Serial No. 110–75.

*Drugs in Sports: Compromising the Health of Athletes and Undermining the Integrity of Competition.*—Hearing on Drugs in Sports: Compromising the Health of Athletes and Undermining the Integrity of Competition. Hearing held February 27, 2008. PRINTED, Serial No. 110–93.

*Safety of Phthalates and Bisphenol-A in Everyday Consumer Products.*—Hearing on Safety of Phthalates and Bisphenol-A in Everyday Consumer Products. Hearing held June 10, 2008. PRINTED, Serial No. 110–125.

*Breeding, Drugs, and Breakdowns: The State of Thoroughbred Horseracing and the Welfare of the Thoroughbred Racehorse.*—Hearing on Breeding, Drugs, and Breakdowns: The State of Thoroughbred Horseracing and the Welfare of the Thoroughbred Racehorse. Hearing held June 19, 2008. PRINTED, Serial No. 110–129.

*Economic and Security Concerns in Tourism and Commerce: H.R. 3232 and H.R. 1776.*—Hearing on Economic and Security Concerns in Tourism and Commerce: H.R. 3232 and H.R. 1776. Hearing held September 11, 2008. PRINTED, Serial No. 110–146.

*H.R. 3402, the “Calling Card Consumer Protection Act”.*—Hearing on H.R. 3402, the “Calling Card Consumer Protection Act”. Hearing held September 16, 2008. PRINTED, Serial No. 110–147.

## SUBCOMMITTEE ON ENERGY AND AIR QUALITY

### LEGISLATIVE ACTIVITIES

#### ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Public Law 110–140 (H.R. 6, H.R. 453, H.R. 632, H.R. 1705, H.R. 1721, H.R. 1933, H.R. 2635, H.R. 2701, H.R. 3221, H.R. 4773, S. 103, S. 193, S. 357, S. 62, S. 987, S. 992, S. 1321, S. 1419, S. 1656, S. 1657, S. 1771)

#### *Summary*

The Energy Independence and Security Act of 2007 (EISA) moves the United States towards increased energy independence and security through increases in the production of clean renewable fuels, by protecting consumers, by promoting research and deployment of greenhouse gas capture and storage options, by improving the energy efficiency of Federal Government operations, and by increasing the energy efficiency of products, buildings, and vehicles. Provisions within the jurisdiction of Energy and Commerce are highlighted below.

EISA provides for extensive energy efficiency improvements for appliances. It adopts a consensus agreement developed by manufacturers and appliance efficiency advocates, which sets new appliance efficiency standards for residential clothes washers, dishwashers, and dehumidifiers. Updated standards are also mandated by certain dates for refrigerators, refrigerator-freezers, and freezers. New efficiency standards are implemented for stationary general and special purpose electric motors and residential boilers, as well.

EISA authorizes the Department of Energy (DOE) to establish, after a detailed study of costs and benefits involving all stakeholders, up to three regional variations in energy efficiency appliance standards for non-portable heating or air-conditioning products and requires labeling. Any such regional standards are expected by the Committee to be enforced pursuant to Sections 333 through 335 of the Energy Policy and Conservation Act, including self-enforcement by purchasers of such equipment sold into regions for which it is not labeled. Section 325(p)(1) of the Energy Policy and Conservation Act (EPCA), which requires an advanced rulemaking process prior to a proposed rulemaking process, was repealed.

EISA also expedites the appliance standard rulemaking process when stakeholders submit consensus positions regarding new appliance efficiency standards. It also corrects a misinterpretation of the Energy Policy Act of 2005 (EPACT), which blocked implementation of final rules adopted by DOE on commercial package air-con-

ditioning equipment, and adopted new appliance efficiency standards based on such final rules.

EISA provides that DOE may set more than one performance standard to prescribe minimum energy efficiency or maximum energy use for covered products (and may of course accept more than one as part of a consensus agreement), with separate provisions regarding covered products that use or handle water to allow standards that cover both water and energy where appropriate.

Under this law, DOE is required to review appliance efficiency standards by 6 years after their establishment and propose new standards if warranted based on technical and economic factors. The law sets a 2-year deadline for finalization of new standards. Where DOE determines new standards are not warranted, it must revisit that determination after three years. EISA also requires DOE to report its progress in keeping schedule to establish new appliance efficiency standards every six months and to report any delays or missed deadlines, sending such reports directly to relevant congressional committees, and also to the court and parties involved in an operative consent decree under which DOE makes up prior failures to meet such deadlines. The purpose is to facilitate a separate agreement reached between efficiency advocates and relevant manufacturers and associations to bring further joint legal action in Federal court to require DOE compliance, in lieu of allowing a lapse of preemption of State appliance efficiency standards. Furthermore, under EISA all appliance test procedures must be reviewed every seven years. For furnace fans, DOE must complete rulemaking by July 1, 2013 when permitted, but not required, by EAct 2005.

EISA also requires that Federal agencies that purchase and utilize appliances which include external and certain internal standby power devices, to purchase only such products that use not more than 1 watt in the standby mode, or the lowest wattage available for such a product, except where impracticable or where the performance of the product might thereby be compromised. Appliance efficiency standards for external power-supply devices were also adopted and DOE is required to review such standards in 2011 and 2015, with any updated standards being effective 2 years thereafter.

In adopting lighting standards, EISA establishes that for general service lamps, 100-watt incandescent bulbs emitting less than 60 lumens per watt be prohibited in 2012 and thereafter. A set schedule by which general service electric lamps sold each year should meet stated minimum energy efficiency improvement targets. Under the law, exemptions for special purpose lamps and conditional exceptions for other designated lamps are created as well as incentives, public education, labeling and sales data tracking system.

EISA creates minimum efficiency standards for incandescent reflector lamps and certain fluorescent lamps. It also required that the federal government substitute energy-efficient lighting for incandescent bulbs wherever feasible. Manufactured housing must also meet updated efficiency codes unless it is not cost effective to do so.

EISA allows States to premise energy budgets in building codes on use of appliances with energy efficiency greater than the Federal minimum standards. It also reauthorizes the Weatherization Assistance Program through 2012.

Commercial and Federal building energy efficiency requirements are increased under EISA. An Office of High-Performance Green Buildings is established within DOE (within the Office of Energy Efficiency and Renewable Energy). The law requires that the Director will coordinate green building activities within the Federal government, and create and enter into public-private partnerships to leverage private investments to achieve green building objectives.

EISA also provides for the review and adoption of a national goal to reduce commercial building energy use and achieve commercial buildings that—through efficiency and use of renewable energy—eliminate net use of fossil fuels. The provision sets goals that such buildings be generally constructed after 2025, attain 50 percent of all commercial buildings by 2035 through retrofitting green technologies, and are achieved in all commercial buildings by 2050. The Director of the new office is required to develop and implement life-cycle budgeting and costing methodologies and tools for green buildings. The Director also is responsible for identifying and implementing incentives through recognition awards and to allow agencies to retain savings achieved through green building practices.

Under EISA, the Director of the Office of Federal Procurement is required to modify procurement guidelines to employ green building materials and technologies and reduce environmental impacts. Federal agencies must also identify energy and water saving measures that could be undertaken in each building (with 12-year-or-shorter paybacks), and within three years to implement and publicize such measures on the Internet and develop a benchmarking system by which each agency's success will be scored.

The building efficiency provisions of EISA also require at least five demonstration projects of green building technology at Federal facilities and four at universities in different regions of the U.S. An Environmental Protection Agency (EPA) program is established to assist in achieving greater efficiency in buildings housing data centers and server farms.

EISA provides additional energy efficiency gains in the industrial sector by amending the Energy Conservation and Policy Act by adding three new sections. First, a survey of wasted industrial energy recovery and potential use requires that EPA create a registry of sites with economically feasible waste energy recovery, disqualifying any with use of thermal energy that would not be separately justifiable, or that fail to demonstrate a reasonable and efficient balance between useful thermal and electric energy output. Second, EISA creates incentives for recovery, utilization and prevention of industrial waste energy by providing grants to support waste energy recovery and supported access to market for any excess power generated from waste energy, requiring consideration of alternate regulatory structures to allow such market access. Lastly, the bill establishes Clean Energy Application Center, which strengthens and renames existing Combined Heat and Power (CHP) Application

Centers, to provide expert resources on energy efficiency, CHP, waste energy recovery, and energy-efficient materials usage, working directly with affected industries.

Another EISA provision promotes CHP and district energy systems in public institutions and public school districts, providing funding to help meet initial capital costs through Federal grants and revolving fund loans. Under the law, the State Energy Program is also reauthorized through 2012 and the ESPC program sunset was eliminated. EISA creates an energy efficiency financing advisory committee to advise DOE on ways of lowering costs and increasing investments in energy efficiency.

Another energy efficiency provision of EISA establishes block grant programs for state and local energy efficiency improvements. The program also provided for public education and technical assistance to spread awareness of opportunities for energy efficiency. Under the green buildings retrofit provision, the Director of the Office of High Performance Green Buildings guarantees loans to cover up to 80 percent of the costs to retrofit and renovate existing buildings to meet green building standards.

EISA includes provisions to facilitate the development and implementation of a Smart Grid. A Federal policy was put in place to encourage the use of smart grid technologies. Under the policy, the Department of Energy is directed to lead the Federal effort and to work with States and utilities supported by both a Federal agency smart grid task force and a smart grid advisory committee from stakeholder interests. It also tasks a study of smart grid technologies and completes, assesses, and reports on the barriers to and requirements of a successful smart grid.

The demand response provision of EISA amends the National Energy Conservation Policy Act by adding a National Action Plan for Demand Response which required the Commission to conduct an assessment of demand response potential and to prepare a plan to achieve that potential through assistance to States, and an Environmental Attributes and Impacts of Demand Response and Smart Grid Systems which required an EPA Study of environmental effects of demand response and Smart Grid implementation.

EISA also amends section 1702(c) of EPACT to (1) retain the existing statutory limit on DOE's authority to make a loan guarantee for an eligible project (up to 80 percent of the project cost of a facility); (2) clarify that DOE should approve an amount likely to attract nonguaranteed investment adequate to capitalize the project; (3) provide that while DOE has discretion to guarantee up to 100 percent of the loan amount (subject to the existing 80 percent of project cost cap), DOE may not issue a generic rule establishing a lower percentage limit; and (4) require that a recipient of a loan guarantee provide reasonable assurances that construction workers will be paid not less than prevailing wages consistent with the Davis-Bacon Act.

The bill provides for the development and improvements of renewable fuels infrastructure. It requires that DOE establish a grant program to assist with the installation, replacement, or conversion of existing infrastructure so that it may be used with renewable fuel, including E85. It also provides for technical assistance and marketing grants, authorized \$200 million annually to



DOE for purposes of carrying out this section, and prohibits the awarding of any grant to a large, vertically integrated oil company.

The Petroleum Marketing Practices Act (PMPA) is amended to prohibit a franchise agreement from restricting the franchisee's ability to install renewable fuel infrastructure, convert existing infrastructure to renewable fuel use, advertise the availability of renewable fuel, or sell renewable fuel in any specified area of the marketing premises. Additionally, under the provision DOE, in consultation with the Department of Transportation (DOT), is required to report to Congress on the market penetration of FFVs and on the feasibility of requiring motor fuel retailers to install E85 compatible dispensers.

DOE, in consultation with DOT, must conduct a study on the feasibility of the construction of dedicated ethanol pipelines and study and report to Congress on the adequacy of railroad infrastructure for the delivery of ethanol. EPA, in consultation with DOE and DOT, also must conduct a study of the feasibility of widespread use of ethanol blended gasoline with levels of ethanol greater than 10 percent.

For cellulosic ethanol production, EISA amends EPACT to increase the authorized amount of cellulosic ethanol production grants and establish criteria to promote geographical dispersion of grant recipients and feedstock diversity. It also requires DOT, in consultation with DOE, to engage in a public education campaign to make consumers aware of the availability of flexible-fuel vehicles and the locations where renewable fuels can be purchased.

In another section, EISA modifies the procedures for obtaining a waiver under section 211(f)(4) of the Clean Air Act related to fuels and fuel additives. This section required the Administrator to take final action on a waiver application within 270 days of receiving the application. An application is not to be considered granted unless and until the Administrator took final action granting the waiver.

The bill creates a grant program to support the domestic development and production of flexible-fuel vehicles and authorized \$50 million for cellulosic ethanol grants to 10 entities from 1890 land grant colleges, Historically Black Colleges or Universities, Tribal serving institutions or Hispanic serving institutions.

EISA establishes an initiative to promote plug-in hybrid technologies as well as advance battery procurement. The Secretary of Energy is directed to establish a program to provide guarantees of loans for the construction of facilities for the manufacture of advanced vehicle batteries and battery systems that are developed and produced in the United States. EISA also amends Section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062) to expand that section's application to components of hybrid batteries and vehicles, and gives priority to manufacturing facilities that have recently ceased or will soon cease operation.

Under EISA, the Secretary of Energy is also directed to establish a program to make grants to owners of domestic motor vehicle manufacturing or production facilities for the production of plug-in hybrid electric motors or conversion modules to be used as electricity storage capacity for utilities.

Incentives for Federal and State fleets are established by amending section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) to create incentives for the use of medium and heavy duty hybrid vehicles in Federal and State fleets. Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is also amended to include electric drive in relevant provisions of the Energy Policy Act of 1992.

EISA establishes additional policies to improve the state data collection required by the Energy Information Administration (EIA) to support efficient energy markets.

#### *Legislative History*

The Subcommittee on Energy and Air Quality held eight hearings prior to reporting Committee Prints for the Energy Independence and Security Act of 2007.

On February 28, 2007, the subcommittee held an oversight hearing entitled, “A Review of the Administration’s Energy Proposal for the Transportation Sector.”

On April 18, 2007, it held an oversight hearing entitled, “Alternative Transportation Fuels: An Overview.”

On April 24, 2007, the subcommittee held an oversight hearing on the implementation of the Energy Policy Act of 2005 loan guarantee Programs by the Department of Energy.

The subcommittee also held two hearings on energy efficiency. On May 1, 2007, it held an oversight hearing entitled “Achieving—At Long Last—Appliance Efficiency Standards” and on May 3, 2007, the Subcommittee held a hearing, “Facilitating the Transition to a Smart Electric Grid.”

On May 8, 2007, there was an oversight hearing concerning alternative fuels entitled, “Alternative Fuels: Current Status, Proposals for New Standards, and Related Infrastructure Issues.”

In May and June of 2007 the subcommittee held two days of legislative hearings to hear from stakeholders on discussion drafts of the energy bill. The first legislative hearing, held on May 24, 2007, consisted of witness testimony concerning the energy efficiency, smart electric grid, loan guarantees, and standby loans for coal-to-liquids projects provisions of the drafts. On June 7, 2007, the Subcommittee held legislative hearings on the discussion drafts concerning alternative fuels, infrastructure, and vehicles.

On June 20, 2007, the subcommittee met in open session to mark up the committee discussion drafts. A committee print concerning advanced battery and plug-in hybrid technology was reported to full committee, amended, by a voice vote. Another committee print, concerning enhanced EIA data collection, was forwarded to the full Committee, without amendment, by a voice vote. And yet another committee print regarding the promotion of renewable fuel infrastructure was forwarded to the full Committee, amended, by a rollcall vote: 17–14.

On June 27 and 28, 2007, the full Committee met in open mark-up to consider six committee prints. On June 27, 2007, Committee Print #1, To promote greater energy efficiency, was ordered favorably reported, amended, by a rollcall vote: 27–18. Committee Print #2, To facilitate the transition to a smart electric grid, was ordered favorably reported, amended, by a voice vote. Committee Print #3, To clarify the amount of loans to be guaranteed under Title XVII

of the Energy Policy Act of 2005, was ordered favorably reported without amendment, by a voice vote.

On June 28, 2007, the committee met in open markup session to consider the remaining three committee prints. Committee Print #4, To promote the development of renewable fuels infrastructure, was ordered favorably reported, amended, by a rollcall vote: 33–21. Committee Print #5, To promote advanced plug-in hybrid vehicles and vehicle components, was ordered favorably reported, amended, by a voice vote. Committee Print #6, To enhance availability of critical energy information, was ordered favorably reported, amended, by a voice vote.

After passage of the committee prints by the Committee on Energy and Commerce, the prints were introduced as six separate bills (HR 3236–HR 3241) and combined with the contributions of other committees into an omnibus energy bill, which initially passed the House on August 4, 2007 as H.R. 3221. Over the next several months the House and Senate worked to reconcile the differences between their respective versions of omnibus energy legislation. There were several policies contained in the Senate-passed version of the legislation that did not appear in the House bill but that were squarely in the jurisdiction of the Committee on Energy and Commerce and on which the committee took the lead in negotiating on behalf of the House. The two most notable were revisions to Corporate Average Fuel Economy (CAFE) and revisions to the Renewable Fuel Standard (RFS).

The Conference Committee negotiated a 40-percent increase in the fuel economy of motor vehicles, increasing standards to 35 mpg for passenger cars and light trucks combined. The compromise provided manufacturers with the flexibility to contribute significantly to the national objectives of increasing energy security and environmental protection, while preserving approximately 17,000 domestic assembly plant jobs in the United States. It also established specific numbers and targets, including new categories of vehicles, in a comprehensive approach to fuel economy. It required manufacturers to maintain a minimum fleet-wide average, distinguished between cars and trucks when establishing standards, and expanded incentives for the production of vehicles that run on biofuels such as ethanol or biodiesel.

The Senate-passed version of the energy bill included an expanded RFS, a policy initially created in the Energy Policy Act of 2005 which mandated a minimum amount of renewable fuel to be blended with conventional gasoline. During the negotiations between the House and Senate, the Committee was successful in keeping the authorization for the RFS in the Clean Air Act and its administration at the Environmental Protection Agency. The final negotiated version of the RFS significantly increased the percentage of transportation fuel that must come from renewable resources; created separate mandates for advanced biofuels; added provisions to discourage renewable fuel production from environmentally sensitive lands; and added the first specific greenhouse gas reduction requirement to the Clean Air Act.

On December 6, 2007, the House voted to agree with amendments to the Senate amendments to H.R. 6 by a rollcall vote: 235–181.

On December 13, 2007, the Senate concurred in the House amendment to the Senate amendment to H.R. 6, with an amendment, by a rollcall vote: 86–8.

On December 18, 2007, the House agreed to the Senate amendments to the House amendments to the Senate amendments by a rollcall vote: 314–100.

H.R. 6 was presented to the President on December 18, 2007, and signed into law on December 19, 2007 (Public Law 110–140).

#### CLEAN-DIESEL RETROFIT AUTHORIZATION

Public Law 110–255 (S. 2146, H.R. 3754)

To authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes.

#### *Summary*

H.R. 3754 authorized the Administrator of the Environmental Protection Agency to accept diesel emissions reduction Supplemental Environmental Projects as part of settling alleged environmental violations, provided that the projects: protect human health or the environment; are related to the underlying alleged violation; do not constitute activities that the defendant would otherwise be legally required to perform; and do not provide funds for the staff of the Agency or for the contractors to carry out the Agency's internal operations.

#### *Legislative History*

The Subcommittee on Energy and Air Quality held a hearing entitled, “H.R. 3754: Authorizing Supplemental Environmental Projects to Incent Reductions of Diesel Emissions,” on February 13, 2008. The Subcommittee received testimony from the following witnesses: The Honorable Jim Costa, Representative of the 20th District of California; Mr. Tim Regan, Senior Vice President, Corning Incorporated; and, Mr. Conrad Schneider, Advocacy Director, Clean Air Task Force.

On February 13, 2008, the Subcommittee on Energy and Air Quality met in open markup session. H.R. 3754 was forwarded to the full Committee, without amendment, by a voice vote.

On Thursday, March 13, 2008, the full Committee met in open markup session and H.R. 3754 was ordered reported to the House, without amendment, by a voice vote.

On June 10, 2008, the Committee on Energy and Commerce reported H.R. 3754 to the House (H. Rept. 110–705).

On February 29, 2008, S. 2146, identical companion legislation to H.R. 3754, passed the Senate by unanimous consent.

On March 3, 2008, S. 2146 was referred to the Committee on Energy and Commerce.

On June 12, 2008, S. 2146, passed the House, as amended, under suspension of the rules by a rollcall vote: 406–0.

On June 17, 2008, the Senate agreed to the House amendment to S. 2146 by unanimous consent, clearing the measure for the White House.

On June 24, 2008, S. 2146 was presented to the President and on June 30, 2008, signed into law (Public Law 110–255).

TO PROHIBIT THE IMPORTATION OF CERTAIN LOW-LEVEL RADIOACTIVE  
WASTE INTO THE UNITED STATES

(H.R. 5632)

*Summary*

H.R. 5632 would bar issuance by the Nuclear Regulatory Commission of any license for importation of low-level radioactive waste, as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2111 et seq.), into the United States. The bill provides exceptions for low-level waste entering under an existing license as of the date of enactment or low-level waste being returned to a United States facility from which it originated, and authorizes the President to waive the prohibition in instances where the President finds specific reasons in the national interest to provide such waiver.

*Legislative History*

On March 13, 2008, H.R. 5632 was introduced by Representative Gordon of Tennessee, with Representative Matheson of Utah and Representative Whitfield of Kentucky as cosponsors. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker. That same day, the bill was referred to the Subcommittee on Energy and Air Quality.

On Tuesday, May 20, 2008, a hearing was held in the Subcommittee on Energy and Air Quality. Witnesses included Margaret M. Doane, Director, Office of International Programs, Nuclear Regulatory Commission; Kent J. Bradford, Chairman, Utah Radiation Control Board; R. Steve Creamer, Chairman and Chief Executive Officer, EnergySolutions; and Gene Aloise, Director, Natural Resources and the Environment, U.S. Government Accountability Office.

No further action was taken on H.R. 5632 during the 110th Congress.

CARBON CAPTURE AND STORAGE EARLY DEPLOYMENT ACT

(H.R. 6258)

To accelerate the development and early deployment of systems for the capture and storage of carbon dioxide emissions from fossil fuel electric generation facilities, and for other purposes.

*Summary*

The legislation would authorize distribution utilities of fossil-based electricity to hold a referendum on the question of establishing a Corporation which would assess a fee in order to establish a fund for carbon capture and storage (CCS) technologies. If established, the Corporation would operate outside the federal government as a part of the Electric Power Research Institute and would not be subject to the annual budget or appropriations process. Once established, the new entity would be authorized to assess fees on consumers of fossil fuel based electricity. The fees would be set in

accordance with the carbon dioxide content of each fossil fuel and would total between \$1 billion and \$1.1 billion annually for ten years. The funds would be spent on projects which demonstrate carbon capture and storage technologies.

#### *Legislative History*

On June 12, 2008, H.R. 6258 was introduced by Representative Boucher and referred to the Committee on Energy and Commerce.

On June 13, 2008, H.R. 6258 was referred to the Subcommittee on Energy and Air Quality.

On July 10, 2008, the Subcommittee on Energy and Air Quality held a legislative hearing on H.R. 6258. The subcommittee received testimony from representatives of the United Mine Workers of America, American Electric Power (AEP), the National Association of Regulatory Utility Commissioners (NARUC), the Electric Power Research Institute (EPRI), the Natural Resources Defense Council (NRDC), and Carnegie Mellon University.

#### CYBER-SECURITY DISCUSSION DRAFT

#### *Summary*

Electricity generators and transmission facilities are increasingly managed by computers connected to the internet. The Idaho National Laboratories (INL) demonstrated that some electrical generators could be destroyed through remote cyber access by throwing generators out of phase. A Federal Energy Regulatory Commission (FERC) survey of 30 utilities found that 23 had not adequately complied with a June 2007 advisory to mitigate vulnerabilities from cyber intrusions into control systems that can cause physical damage to generators and transmission equipment. The Defense Science Board issued a report which identified the vulnerability of defense bases and task critical assets to loss of electrical power from cyber security attacks. The Homeland Security Committee had held hearings reviewing this threat. Representatives of all Federal agencies agreed that the threat to the nation's electric grid from unauthorized access via computer "hacking" is a major and urgent national security threat to which the industry may not be able to respond adequately using existing consensus-based authority.

A discussion draft of a bill was negotiated by Committee staff that would provide FERC with emergency powers to order utilities to take specific measures to protect the grid operations, based upon the identified threat or upon a presidential finding of a cyber security emergency.

#### *Legislative History*

The Subcommittee on Energy and Air Quality held a legislative hearing on September 11, 2008, which assessed threats to the bulk power system from cyber security attacks and reviewed the draft legislation. Witnesses included the FERC, Department of Energy (DOE), North American Electric Reliability Corporation (NERC), Exelon-representing the Edison Electric Institute, the American Public Power Association and the National Rural Electric Cooperatives Association. Following that hearing, a classified Members'

briefing was held on September 16, 2008, at which the Central Intelligence Agency, DOE, FERC, Department of Defense, Defense Science Board (staff), and INL detailed threats and vulnerabilities to the bulk power system from cyber and physical attacks.

Congress recessed prior to completing work on this bill.

#### CLIMATE CHANGE LEGISLATION DISCUSSION DRAFT

##### *Summary*

The discussion draft of climate legislation would amend the Clean Air Act to establish an economy-wide cap-and-trade program to reduce greenhouse gas emissions. By putting a price on carbon emissions and spurring the development of new and efficient technologies, the discussion draft aims to lower heat-trapping gases and establish a low-carbon economy. The discussion draft cap-and-trade program covers approximately 87 percent of U.S. greenhouse gas emissions, and would reduce covered emissions to approximately six percent below 2005 levels by 2020, 44 percent below 2005 levels by 2030, and 80 percent below 2005 levels by 2050. Hydrofluorocarbons are covered separately from other gases by amending Title VI of the Clean Air Act. The discussion draft presents four options for allocating allowance value.

Sources “covered” by the cap include power plants, producers and importers of petroleum and other fossil-based fuels, large industrial facilities, producers and importers of other bulk gases, natural gas local distribution companies, and geologic sequestration sites. The draft’s cap-and-trade system would help reduce costs by providing flexibility to emitters, creating incentives for sources to use low-cost compliance strategies, and encouraging technological innovation. Emission caps in the program’s early years are set to provide a reasonable transition into a carbon-constrained environment, which will also help contain costs. The draft’s energy efficiency programs also form an important component of limiting the cost of the overall program.

Under the program, covered entities would be able to purchase EPA-approved domestic and international offset credits to meet a portion of their compliance obligation. All offset projects must meet strict quality criteria. Carbon market oversight responsibilities, including prevention of fraud and manipulation, would reside with the Federal Energy Regulatory Commission. To avoid jobs and emissions moving overseas as a result of a mandatory U.S. climate change program, the discussion draft relies on various combinations of allocations to industry and border adjustments for carbon-intensive products.

The discussion draft contains numerous provisions to improve energy efficiency, including new loan programs and more stringent building code standards. The draft legislation also included provisions to spur the deployment of clean energy technologies, including carbon capture and sequestration systems, and wind and solar technologies.

##### *Legislative History*

The Subcommittee on Energy and Air Quality held 13 hearings which contributed to the development of the draft: (1) “Climate

Change: Are Greenhouse Gas Emissions from Human Activities Contributing to the Warming of the Planet?” held on March 7, 2007, (2) “Climate Change and Energy Security: Perspectives from the Automobile Industry” held on March 14, 2007, (3) “Climate Change: State and Local Perspectives” held on March 15, 2007, (4) “Climate Change: Perspectives of Utility CEOs” held on March 20, 2007, (5) “Perspectives on Climate Change,” held on March 21, 2007, (6) “Climate Change-International Issues, Engaging Developing Countries,” held on March 27, 2007, (7) “Climate Change: Lessons Learned from Cap-and-Trade Programs,” held on March 29, 2007, (8) “Administration Perspectives on United Nations Climate Change Conference in Bali,” held on January 17, 2008, (9) “Climate Change: Competitive Concerns and Prospects for Engaging Developing Countries,” held on March 5, 2008, (10) “Legislative Proposals to Reduce Greenhouse Gas Emissions: An Overview,” held on March 19, 2008, (11) “Strengths and Weaknesses of Regulating Greenhouse Gas Emissions Using Existing Clean Air Act Authorities,” April 10, 2008, (12) “Climate Change: Costs of Inaction” held on June 26, 2008, (13) “Climate Benefits of Improved Building Energy Efficiency,” held on July 17, 2008.

#### OVERSIGHT ACTIVITIES

##### THE PIPELINE INSPECTION, PROTECTION, ENFORCEMENT, AND SAFETY ACT OF 2006: IMPLEMENTATION REVIEW AND DISCUSSION OF SAFETY REASSESSMENT INTERVALS FOR NATURAL GAS PIPELINES

On March 12, 2008, the Subcommittee on Energy and Air Quality held an oversight hearing to review implementation of the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (the PIPES Act). This was the first oversight hearing conducted since the PIPES act was signed into law on December 29, 2006. The purpose of the hearing was to review the progress of the Pipeline and Hazardous Materials Safety Administration (PHMSA) in administering the new provisions of pipeline safety law; review the agency’s progress on meeting past deadlines from previous statutory requirements; and to review proposals to change the mandatory 7 year reinspection interval for natural gas pipelines. The subcommittee received testimony from PHMSA, the National Association of Regulatory Utility Commissioners, the Pipeline Safety Trust, the American Gas Association, the Interstate Natural Gas Association of America, and Association of Oil Pipelines.

##### THE RENEWABLE FUELS STANDARD: ISSUES, IMPLEMENTATION, AND OPPORTUNITIES

On May 6, 2008, the Subcommittee on Energy and Air Quality held an oversight hearing on the Renewable Fuels Standard (RFS). The RFS was created by the Energy Policy Act of 2005 and received a significant revision in 2007 as part of the Energy Independence and Security Act. The goal of the hearing was to gather testimony from the Environmental Protection Agency and various stakeholders concerning the implementation of the newly rewritten program. The subcommittee received testimony from the Honorable Stephanie Herseth Sandlin (SD), the EPA, the Natural Resources Defense Council, the Renewable Fuels Association, the National



Petrochemical and Refiners Association, the Grocery Manufacturers of America, the National Corn Growers Association, the POET Corporation, KL Process Design Group LLC, and Oxfam America.

#### NEXT STEPS TOWARD PERMANENT NUCLEAR WASTE DISPOSAL

On July 15, 2008, the Subcommittee on Energy and Air Quality held an oversight hearing on the status of the Yucca Mountain high-level nuclear waste repository program. The Nuclear Waste Policy Act (NWPA) of 1982 and its amendments of 1987 established Yucca Mountain as the primary site of long-term nuclear waste disposal. In February of 2002, the President recommended to Congress that Yucca Mountain undergo development into a repository site and instructed the Department of Energy to proceed with construction licensing. On June 3, 2008, the Department of Energy submitted an application for such a license to the Nuclear Regulatory Commission, meeting a promised deadline.

The hearing was intended to review the further procedural steps required before a license can be issued, to understand the updated timing of the completion of the repository if a license is granted, and to review other issues that have arisen concerning the project. One was the funding that will be required for constructing the repository and its availability through the collections of a direct fee from electric ratepayers since 1982, now amounting to principal and interest putatively valued at about \$30 billion, but treated as Federal revenue subject to separate appropriations. The current failure of the Federal government to meet its statutory responsibility to accept nuclear waste from plant operators, and the growing legal liability for that failure, was another topic of the hearing. As well, the hearing reviewed the question of whether a second repository should be planned or whether the statutory ceiling of 70,000 tons of waste an amount likely to accumulate prior to the opening of the Yucca Mountain facility could be raised consistent with safety and engineering considerations.

Testimony was offered by the Hon. Shelley Berkley of Nevada and by a panel of witnesses including: Mr. Edward F. Sproat, III, Director of the Office of Nuclear Waste Management of the Department of Energy; Mr. Robert J. Myers, Principal Deputy Assistant Administrator, Environmental Protection Agency; Mr. Michael F. Weber, Director, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission; Dr. B. John Garrick, Chairman, Nuclear Waste Technical Review Board; Mr. Marvin Fertel, Executive Vice President and Chief Nuclear Officer, Nuclear Energy Institute; and Ms. Anne C. George, Commissioner, Connecticut Department of Public Utility Control.

#### HEARINGS HELD

*Addressing Climate Change: Views from Private Sector Panels.*—Hearing on private sector views on addressing climate change. Hearing held February 13, 2007. PRINTED, Serial No. 110–4.

*A Review of the Administration's Energy Proposal for the Transportation Sector.*—Hearing on the review of the Administration's Energy proposal for the Transportation sector. Hearing held February 28, 2007. PRINTED, Serial No. 110–9.

*The Environmental Protection Agency Fiscal Year 2008 Budget Request.*—Hearing on the Environmental Protection Agency's budget request for fiscal year 2008. Hearing held March 8, 2007, jointly with the Subcommittee on Environment and Hazardous Materials. PRINTED, Serial No. 110–11.

*Carbon Capture and Sequestration.*—Hearing on the overview of carbon capture and sequestration. Hearing held March 6, 2007. PRINTED, Serial No. 110–12.

*Climate Change: Are Greenhouse Gas Emissions from Human Activities Contributing to a Warming of the Planet?*—Hearing on greenhouse gas emissions affecting the warming of the planet. Hearing held March 7, 2007. PRINTED, Serial No. 110–14.

*Climate Change and Energy Security: Perspectives from the Automobile Industry.*—Hearing on the automobile industry's perspective regarding climate change and energy security. Hearing held March 14, 2007. PRINTED, Serial No. 110–19.

*Climate Change: State and Local Perspectives.*—Hearing on state and local perspectives regarding climate change. Hearing held March 15, 2007. PRINTED, Serial No. 110–20.

*Climate Change: Perspectives of Utility CEOs.*—Hearing on Utility CEOs' perspectives on climate change. Hearing held March 20, 2007. PRINTED, Serial No. 110–22.

*Perspectives on Climate Change.*—Hearing on climate change with former Vice President Al Gore and Swedish academic Dr. Bjorn Lomborg. Hearing held March 21, 2007, jointly with the Committee on Science Subcommittee on Energy and Environment. PRINTED, Serial No. 110–23.

*Climate Change—International Issues, Engaging Developing Countries.*—Hearing on international issues and developing countries regarding climate change. Hearing held March 27, 2007. PRINTED, Serial No. 110–26.

*Climate Change—Lessons Learned from the Existing Cap-and-Trade Programs.*—Hearing on lessons learned on climate change from existing cap-and-trade programs. Hearing held March 29, 2007. PRINTED, Serial No. 110–28.

*Alternative Transportation and Fuels.*—Hearing on alternative transportation and fuels. Hearing held April 28, 2007. PRINTED, Serial No. 110–31.

*Implementation of EPACT 2005 Loan Guarantee Programs by the Department of Energy.*—Hearing on the Department of Energy's implementation of EPACT 2005 Loan Guarantee Program. Hearing held April 24, 2007. PRINTED, Serial No. 110–32.

*Achieving—At Long Last—Appliance Efficiency Standards.*—Hearing on achieving appliance efficiency standards. Hearing held May 1, 2007. PRINTED, Serial No. 110–36.

*Facilitating the Transition to a Smart Electric Grid.*—Hearing on facilitating the transition to a smart electric grid. Hearing held May 3, 2007. PRINTED, Serial No. 110–41.

*Alternative Fuels: Current Status, Proposals for New Standards, and Related Infrastructure Issues.*—Hearing on the current status, proposals for new standards, and related infrastructure issues regarding alternative fuels. Hearing held May 8, 2007. PRINTED, Serial No. 110–42.

*Legislative Hearing on Discussion Drafts Concerning Energy Efficiency, Smart Electricity Grid, Energy Policy Act of 2005 Title XVII Loan Guarantees, and Standby Loans for Coal-to-Liquids Projects.*—Legislative hearing on discussion drafts concerning energy efficiency, smart electricity grid, Energy Policy Act of 2005 Title XVII Loan Guarantees, and standby loans for coal-to-liquids projects. Hearing held May 24, 2007. PRINTED, Serial No. 110–50.

*Legislative Hearing on Discussion Draft Concerning Alternative Fuels, Infrastructure and Vehicles.*—Legislative hearing on a discussion draft regarding alternative fuels, infrastructure, and vehicles. Hearing held June 7, 2007. PRINTED, Serial No. 110–53.

*Administration Perspectives on United Nations Climate Change Conference in Bali.*—Hearing on the Administration's perspectives on United Nations Climate Change Conference in Bali. Hearing held January 17, 2008. PRINTED, Serial No. 110–80.

*H.R. 3754: Authorizing Supplemental Environmental Projects to Incent Reductions of Diesel Emissions.*—Legislative hearing on H.R. 3754 authorizing supplemental environmental projects to incentive reductions of diesel emissions. Hearing held February 13, 2008. PRINTED, Serial No. 110–89.

*Climate Change: Competitiveness Concerns and Prospects for Engaging Developing Countries.*—Hearing on competitiveness concerns with climate change regulation and prospects for engaging developing countries in climate change. Hearing held March 5, 2008. PRINTED, Serial No. 110–97.

*The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006: Implementation Review and Discussion of Safety Reassessment Intervals for Natural Gas Pipelines.*—Hearing on the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006: Implementation Review and Discussion of Safety Reassessment Intervals for Natural Gas Pipelines. Hearing held March 12, 2008. PRINTED, Serial No. 110–101.

*Strengths and Weaknesses of Regulating Greenhouse Gas Emissions Using Existing Clean Air Act Authorities.*—Hearing on the strengths and weaknesses of regulating greenhouse gas emissions using existing Clean Air Act authorities. Hearing held April 10, 2008. PRINTED, Serial No. 110–105.

*The Renewable Fuels Standard: Issues, Implementation, and Opportunities.*—Hearing on the issues, implementation, and opportunities surrounding the renewable fuels standard. Hearing held May 6, 2008. PRINTED, Serial No. 110–113.

*H.R. 5632, A Bill to Prohibit the Importation of Certain Low-Level Radioactive Waste Into the United States.*—Legislative hearing on H.R. 5632, a bill to prohibit the importation of certain low-level radioactive waste into the United States. Hearing held May 20, 2008. PRINTED, Serial No. 110–119.

*Legislative Proposals to Reduce Greenhouse Gas Emissions: An Overview.*—An overview hearing on legislative proposals to reduce greenhouse gas emissions. Hearing held June 19, 2008. PRINTED, Serial No. 110–130.

*Climate Change: Costs of Inaction.*—Hearing on the costs of inaction regarding climate change. Hearing held June 26, 2008. PRINTED, Serial No. 110–133.

*H.R. 6258, The Carbon Capture and Storage Early Deployment.*—Legislative hearing on H.R. 6258, the carbon capture and storage early deployment. Hearing held July 10, 2008. PRINTED, Serial No. 110–134.

*Next Steps Toward Permanent Nuclear Waste Disposal.*—Hearing on permanent nuclear waste disposal. Hearing held July 15, 2008. PRINTED, Serial No. 110–135.

*Climate Benefits of Improved Building Energy Efficiency.*—Hearing on the climate benefits of improved building energy efficiency. Hearing held July 17, 2008. PRINTED, Serial No. 110–136.

*Protecting the Electric Grid from Cyber-Security Threats.*—Hearing on protecting the electric grid from cyber-security threats. Hearing held September 11, 2008. PRINTED, Serial No. 110–145.

SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

LEGISLATIVE ACTIVITIES

MERCURY EXPORT BAN ACT OF 2008

Public Law 110–414 (S. 906, H.R. 1534)

To prohibit the sale, distribution, or transfer of mercury, to prohibit the export of mercury, and to provide a long-term management and storage option for elemental mercury generated by private sources.

*Summary*

The Mercury Ban Export Act of 2008 prohibits the sale, distribution, and transfer of elemental mercury held by Federal agencies (except for its transfer between Federal agencies to facilitate storage) as of the date of enactment. The export of elemental mercury from the United States is banned beginning January 1, 2013. Any person residing in the United States is allowed to petition the Administrator for an exemption from the prohibition on export of elemental mercury. The Administrator may grant by rule, after notice and opportunity for comment, an exemption for a specified use at an identified foreign facility if each of the following findings is satisfied:

- (i) non-mercury alternatives for the specified use are not available in the country where the facility is located;
- (ii) there is no other source of elemental mercury available from domestic supplies (not including new mercury mines) in the country where the elemental mercury will be used;
- (iii) the country where the elemental mercury will be used certifies its support for the exemption;
- (iv) the export will be conducted in such a manner as to ensure the elemental mercury will be used at the identified facility and not otherwise diverted for other uses for any reason;
- (v) the elemental mercury will be handled and managed in a manner that will protect human health and the environment, taking into account local, regional, and global human health and environmental effects; and
- (vi) the export of elemental mercury for the specified use is consistent with international obligations of the United States intended to reduce global mercury supply, use, and pollution.

The Administrator must also include in the exemption such terms and conditions as are necessary to minimize the export of elemental mercury and ensure that the conditions for granting the exemption will be fully met. No single exemption can exceed 3 years in duration and 10 metric tons of elemental mercury.

The Administrator may by order suspend or cancel an exemption in the case of a violation of the new Section 12(c) of the Toxic Sub-

stances Control Act, a violation of the terms and conditions of an exemption, or the submission of false information. Violations of the statutory requirements or the terms and conditions of an exemption, or the submission of false information in connection therewith are a prohibited act under Section 15 of the Toxic Substances Control Act. Such violations shall be subject to penalties, injunctive relief, and citizen suits as provided in the Toxic Substances Control Act.

The Secretary of Energy is required not later than January 1, 2010, to designate a facility or facilities of the Department of Energy (except Oak Ridge, Tennessee) for the purpose of long-term management and storage, of elemental mercury generated within the United States. The designated facility is required to be operational not later than January 1, 2013, for the purpose of accepting custody of elemental mercury delivered to the facility.

The Secretary is required after appropriate consultation with interested parties, to assess and collect a fee at the time of delivery to cover the pro rata cost of long-term management and storage of elemental mercury delivered to the facility. The amount of the fees is to be made publicly available not later than October 1, 2012, and may be adjusted annually.

Costs covered by the fee are the costs to the Department of Energy of providing management and storage for the elemental mercury delivered to the facility, including facility operation and maintenance, security, monitoring, reporting, personnel, administration, inspections, training, fire suppression, closure, and other costs required for compliance with applicable law. Such costs shall not include costs associated with land acquisition or permitting of a designated facility under the Solid Waste Disposal Act, 42 U.S.C. Section 6901 et seq. (1976), or other applicable law. Building design and building construction costs shall only be included to the extent that the Secretary finds that the management and storage of elemental mercury, accepted under the program created by this section, cannot be accomplished without construction of a new building or buildings.

The Secretary is required to report annually to the appropriate Committees of jurisdiction on all of the costs incurred in the previous fiscal year associated with the long-term management and storage of elemental mercury, including a separate accounting of the costs associated with activities taken under this section.

#### *Legislative History*

On March 15, 2007, H.R. 1534 was introduced by Representative Allen and referred to the Committee on Energy and Commerce. On March 16, 2007, H.R. 1534 was referred to the Subcommittee on Environment and Hazardous Materials.

On June 22, 2007, the Subcommittee on Environment and Hazardous Materials held a hearing on H.R. 1534.

On August 2, 2007, the Subcommittee on Environment and Hazardous Materials met in open markup session and H.R. 1534 was forwarded to the full Committee, amended, by a voice vote.

On October 30, 2007, the full Committee met in open markup session and H.R. 1534 was ordered favorably reported to the House, amended, by a rollcall vote: 45–2.

On November 13, 2007, the Committee reported H.R. 1534 to the House, amended (H. Rept. 110–444). That same day, H.R. 1534 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On November 14, 2007, H.R. 1534 was referred to the Senate Committee on Environment and Public Works.

On May 13, 2008, the Senate Committee on Environment and Public Works held a hearing on H.R. 1534 and S. 906 (introduced on March 15, 2007, by Senator Barack Obama).

On September 22, 2008, S. 906 was reported to the Senate, amended, by the Committee on Environment and Public Works (S. Rept. 110–477).

On September 26, 2008, S. 906 passed the Senate, amended, by unanimous consent.

On September 29, 2008, S. 906 passed the House under suspension of the rules, by a rollcall vote: 393–5, 6 voting present. This action cleared the measure for the White House.

S. 906 was presented to the President on October 3, 2008, and signed on October 14, 2008 (Public Law 110–414).

#### ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Public Law 110–140 (H.R. 6, H.R. 453, H.R. 632, H.R. 1705, H.R. 1721, H.R. 1933, H.R. 2635, H.R. 2701, H.R. 3221, H.R. 4773, S. 103, S. 193, S. 357, S. 962, S. 987, S. 992, S. 1321, S. 1419, S. 1656, S. 1657, S. 1771)

#### (Environmental Provisions)

#### Title V—Healthy High Performance Schools

##### *Summary*

Title V of H.R. 6 amends the Toxic Substances Control Act to authorize a grants award program to states for: technical assistance for EPA programs for schools to address environmental issues (including the Tools for Schools Program and the Healthy School Environmental Assessment Tool); and development and implementation of state school environmental health programs that include standards for school building design, construction and renovation; and identification of ongoing school environmental problems and recommended solutions to address those problems.

This title directs the EPA Administrator to issue voluntary site selection guidelines that account for: the special vulnerability of children to hazardous substances or pollution exposures, modes of transportation available to students and staff, and the potential use of the school site as an emergency shelter. The title also instructs the EPA Administrator to issue voluntary guidelines for use by States in developing and implementing environmental health program for schools. The voluntary guidelines for the environmental health programs, among other considerations, will take into account environmental hazards that can be present in school facilities, including: lead, radon, asbestos, pollutant emissions, releases of elemental mercury; and the special vulnerability of children in low-income and minority communities to exposures from environmental hazards. This title authorizes appropriations of \$1 million

for fiscal year 2009, and \$1.5 million for each of the fiscal years 2010–2013. The EPA Administrator is required to publish and submit to Congress an annual report on all activities carried out under this title.

#### *Legislative History*

This provision was added to H.R. 6 as an amendment during Senate consideration on June 21, 2007. That same day, H.R. 6 passed the Senate, amended, by a rollcall vote: 65–27.

The Senate and House versions were negotiated to include an amended version of this environmental provision; differences in the House and Senate versions of H.R. 6 were resolved on December 18, 2007.

The President signed H.R. 6 on December 19, 2007 (Public Law 110–140).

#### INTERNATIONAL SOLID WASTE IMPORTATION AND MANAGEMENT ACT OF 2005

(H.R. 518)

To amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, and for other purposes.

#### *Summary*

H.R. 518 amends the Solid Waste Disposal Act to authorize States to enact laws or issue regulations or orders restricting the receipt and disposal of foreign municipal solid waste, as defined by this Act, within their borders until the Administrator of the Environmental Protection Agency (EPA) issues regulations implementing and enforcing the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada (Agreement). The bill declares that State actions authorized by this Act shall not be considered a burden on, or otherwise impede, interstate and foreign commerce.

H.R. 518 requires the Administrator to: (1) perform the functions of the Designated Authority of the United States with respect to the importation and exportation of municipal solid waste under the Agreement; (2) implement and enforce the notice and consent and other provisions of the Agreement; and (3) issue final regulations on the Administrator's responsibilities as Designated Authority of the United States.

The legislation also requires the Administrator to give substantial weight to the views of affected States and local governments before consenting to the importation of foreign municipal solid waste into the United States under the Agreement, and to consider the impact of such importation on: (1) the continued public support for Federal and local recycling programs; (2) landfill capacities; (3) air emissions and road deterioration from increased vehicular traffic; and (4) homeland security, public health, and the environment.

Finally, H.R. 518 makes it unlawful for any person to import, transport, or export municipal solid waste for final disposal or for



incineration in violation of the Agreement and authorizes the Administrator to assess civil penalties for any past or current violations of this Act or to commence a civil action in the U.S. district court.

#### *Legislative History*

On January 17, 2007, H.R. 518 was introduced by Representative Dingell and referred to the Committee on Energy and Commerce. On February 2, 2007, H.R. 518 was referred to the Subcommittee on Environment and Hazardous Materials.

On March 20, 2007, the Subcommittee on Environment and Hazardous Materials met in open markup session and forwarded the bill to the full Committee by a voice vote.

On March 22, 2007, the full Committee met in open markup session, and H.R. 518 was ordered favorably reported to the House by a voice vote.

On March 29, 2007, the Committee on Energy and Commerce reported H.R. 518 to the House (H. Rept. 110–81).

On April 24, 2007, the House considered H.R. 518 under suspension of the rules and passed the bill by a voice vote, two-thirds having voted in favor.

H.R. 518 was received in the Senate, read twice and referred to the Committee on Environment and Public Works on April 25, 2007.

No further action was taken on H.R. 518 in the 110th Congress.

#### SAFE DRINKING WATER FOR HEALTHY COMMUNITIES ACT OF 2007

(H.R. 1747)

To amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate.

#### *Summary*

H.R. 1747 amends the Safe Drinking Water Act by waiving application of certain procedures in section 1412(b) of the Safe Drinking Water Act with respect to perchlorate and by requiring the Administrator of the Environmental Protection Agency to promulgate a national drinking water standard for perchlorate. Specifically, H.R. 1747 requires EPA to publish notice of a drinking water standard within 12 months after the enactment of this legislation and within 18 months after publication of the proposed standard, and notice and public comment, promulgate a final national primary drinking water regulation for perchlorate.

#### *Legislative History*

On March 28, 2007, H.R. 1747 was introduced by Representative Solis and referred to the Committee on Energy and Commerce. On March 29, 2007, H.R. 1747 was referred to the Subcommittee on Environment and Hazardous Materials.

On April 25, 2007, the Subcommittee on Environment and Hazardous Materials conducted a legislative hearing to examine the Safe Drinking for Healthy Communities Act. The subcommittee received testimony from officials of the EPA, the Department of Defense, the Government Accountability Office, the Centers for Dis-

ease Control and Prevention, the Food and Drug Administration, and various private interests.

On November 8, 2007, the Subcommittee on Environment and Hazardous Materials met in open markup session and forwarded the bill to full Committee, by a voice vote.

No further action was taken on H.R. 1747 in the 110th Congress.

#### CHEMICAL FACILITIES SECURITY ACT OF 2008

(H.R. 5533)

To revise and extend the chemical facility security program under Public Law 109–295, and for other purposes.

##### *Summary*

H.R. 5533 strikes the subsection 550(b) of Public Law 109–295, which sunsets the chemical facility security program being conducted by the Department of Homeland Security in October 2009. The bill also continues the existing provisions of current law which require the Secretary of the Department of Homeland Security to establish risk-based performance standards for security of chemical facilities and require vulnerability assessments and the development and implementation of site security plans. H.R. 5533 also amends current law to provide that a state or political subdivision may adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance issued under this title, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State.

##### *Legislative History*

On March 5, 2008, H.R. 5533 was introduced by Representative Wynn and referred to the Committee on Energy and Commerce. On March 6, 2008, H.R. 5533 was referred to the Subcommittee on Environment and Hazardous Materials.

On June 12, 2008, the Subcommittee on Environment and Hazardous Materials held a hearing on H.R. 5533, the Chemical Facilities Act of 2008 and H.R. 5577, the Chemical Facility Anti-Terrorism Act of 2008.

No further action was taken on H.R. 5533 or H.R. 5577 in the 110th Congress.

#### THE BRUCE VENTO BAN ASBESTOS AND PREVENT MESOTHELIOMA ACT OF 2008

(H.R. 6903)

To amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products, and for other purposes.

##### *Summary*

H.R. 6903 amends the Toxic Substances Control Act (TSCA) to ban asbestos-containing products. Within two years of enactment, the legislation would statutorily prohibit the import, manufacture,

processing or distribution in commerce of asbestos-containing products. H.R. 6903 provides limited exemptions that take into account public health considerations. The bill also establishes a public education program to increase awareness of asbestos-related diseases and the dangers posed by asbestos-containing products in homes and workplaces.

#### *Legislative History*

On February 28, 2008, the Subcommittee on Environment and Hazardous Materials conducted a legislative hearing on S. 742, the Ban Asbestos in America Act of 2007 (Senator Murray) and draft legislation to ban asbestos in products, referred to as the “Committee Print.” The subcommittee received testimony from officials of the EPA, United States Geological Survey, and public interest and private sector representatives.

Representative Green introduced H.R. 6903 on September 15, 2008, and it was referred to the Committee on Energy and Commerce. That same day, the bill was referred to the Subcommittee on Environment and Hazardous Materials.

No further action was taken on H.R. 6903 in the 110th Congress.

#### THE ENVIRONMENTAL JUSTICE ACT OF 2007

(H.R. 1103)

To codify Executive Order 12898, relating to environmental justice, to require the Administrator of the Environmental Protection Agency to fully implement the recommendations of the Inspector General of the Agency and the Comptroller General of the United States, and for other purposes.

#### *Summary*

H.R. 1103 codifies Executive Order 12898 *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (Environmental Justice Executive Order, February 11, 1994) and makes modifications to the Environmental Protection Agency’s (EPA) environmental justice program based on recommendations by the Government Accountability Office and the EPA Inspector General. Specifically, the bill would direct EPA to conduct environmental justice reviews of its policies and to determine whether they may have a disproportionately high and adverse human health or environmental effect on minority or low-income populations. Additionally, the bill would require EPA to analyze whether new rules will create disproportionate human health or environmental impacts in minority and low-income communities. The bill also creates Congressional reporting requirements to provide for oversight of EPA’s implementation of the Environmental Justice Act.

#### *Legislative History*

On February 15, 2007, H.R. 1103 was introduced by Representative Solis. The bill was referred to the Committee on Energy and Commerce, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker,

in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On February 16, 2007, H.R. 1103 was referred to the Subcommittee on Environment and Hazardous Materials.

On October 4, 2007, the Subcommittee on Environment and Hazardous Materials conducted a legislative hearing to examine H.R. 1103, "Environmental Justice Act of 2007," and H.R. 1055, "Toxic Right-to-Know Protection Act." The purpose of the hearing was to examine the distribution of environmental and human health hazards in low-income and minority communities, the federal government's progress in implementing Executive Order 12898 and addressing such hazards, and EPA's regulatory changes to the Toxics Release Reporting (TRI) program. The subcommittee received testimony from officials of the EPA, the Department of Defense, the Government Accountability Office, the Small Business Administration, and State and private organizations.

No further action was taken on H.R. 1747 in the 110th Congress.

#### TOXIC RIGHT-TO-KNOW PROTECTION ACT

(H.R. 1055)

To amend the Emergency Planning Community Right-to-Know Act to strike a provision relating to modifications in reporting frequency.

#### *Summary*

H.R. 1055 would re-establish the chemical reporting thresholds that were in place under the Toxics Release Inventory (TRI) program prior to certain changes that were approved by the EPA Administrator in late 2006. The bill would amend Section 313 of the Emergency Planning Community Right-to-Know Act (EPCRA) to prohibit the use of "Form A" Certification Statements for facilities using persistent bio-accumulative and toxic (PBT) chemicals, and would re-establish the chemical threshold for non-PBT chemicals at "no greater than 500 pounds." H.R. 1055 would also strike the provision in EPCRA that authorizes the EPA Administrator to change the reporting frequency of the TRI program.

#### *Legislative History*

On February 14, 2007, H.R. 1055 was introduced by Representative Pallone and referred to the Committee on Energy and Commerce.

On February 15, 2007, H.R. 1055 was referred to the Subcommittee on Environment and Hazardous Materials.

On October 4, 2007, the Subcommittee on Environment and Hazardous Materials conducted a legislative hearing to examine the "Toxic Right-to-Know Protection Act," and H.R. 1103, the "Environmental Justice Act of 2007." The purpose of the hearing was to examine the distribution of environmental and human health hazards in low-income and minority communities, the federal government's progress in implementing Executive Order 12898 and addressing such hazards, and EPA's regulatory changes to the Toxics Release Reporting (TRI) program. The subcommittee received testimony from officials of the EPA, the Department of Defense, the Govern-

ment Accountability Office, the Small Business Administration, and State and private organizations.

No further action was taken on H.R. 1055 in the 110th Congress.

#### OVERSIGHT ACTIVITIES

##### THE ENVIRONMENTAL PROTECTION AGENCY FISCAL YEAR 2008 BUDGET REQUEST

On March 1, 2007, the Subcommittee on Environment and Hazardous Materials conducted the first of a two-part oversight hearing on the fiscal year 2008 budget for the U.S. Environmental Protection Agency. EPA is one of only two agencies that actually faced decreases in the President's budget for fiscal year 2008. The first hearing discussed the decline of the President's EPA budget request over the last 10 years and the increasing concern with EPA's ability to fulfill its programmatic mission with sufficient funding in several critical areas including Superfund, Brownfields, State and Local Air Quality Management Grants, the Safe Drinking Water Act Revolving Loan Fund, the Leaking Underground Storage Tank Program, among other issues. The subcommittee received testimony from the EPA Office of the Inspector General, the Environmental Council of the States, the environmental community, and the small business community.

On March 8, 2007, the Subcommittee on Environment and Hazardous Materials and the Subcommittee on Energy and Air Quality held a joint oversight hearing to resume consideration of matters related to the U.S. Environmental Protection Agency Fiscal Year 2008 Budget Request with the EPA Administrator. The second hearing discussed aspects of the Environmental Protection Agency fiscal year 2008 budget request. The subcommittee also examined issues relating to the EPA Inspector General's independence and efforts to close Inspector General field offices and reduce the number of inspectors. In addition, this hearing discussed general oversight of EPA policies and programs including the status of the fine particulate implementation rule, the Clean Air Interstate Rule Act, Clean Air Mercury Rule, Climate Change, Superfund cleanups and Brownfields, among other issues.

##### HAZARDOUS SUBSTANCE RELEASES AND REPORTING UNDER THE COMPREHENSIVE ENVIRONMENT RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (CERCLA) AND THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (EPCRA)

On September 24, 2008, the Subcommittee on Environment and Hazardous Materials conducted an oversight hearing that examined EPA's December 28, 2007, proposed administrative reporting exemption for air releases of hazardous substances to the air from animal waste under CERCLA and EPCRA, as well as reviewed the operation of the Superfund program. The hearing focused on the impacts to public health and the environment from air releases of hazardous substances from animal waste at animal feeding operations. EPA testified that currently a facility has to report a release of a hazardous substance above its reportable quantity to the national Response Center under CERCLA section 103, and to local and State emergency coordinators under EPCRA section 304. EPA

also testified that a response action to any notice to the national Response Center of a release of ammonia, hydrogen sulfide, or any other hazardous substance from animal farms was not likely. The Agency for Toxic Substances and Disease Registry (ATSDR) testified about the adverse health effects of hydrogen sulfide and concluded that based on the air monitoring data collected at Excel Dairy in Minnesota, as well as the concentrations that were detected there, that the community exposures to hydrogen sulfide from air emissions at that facility posed a public health hazard to the residents living in its vicinity. USDA testified that GAO did not have enough information and that USDA has programs that assist farmers and ranchers to ensure better environmental management. The GAO testified on the findings of their recently released report. GAO found that EPA has not yet assessed the extent to which air and water pollution from CAFOs may be impairing human health and the environment because it lacks key data on the amount of pollutants that CAFOs are discharging and EPA lacks a clearly defined strategy for effectively regulating CAFOs.

#### CARBON SEQUESTRATION: RISKS, OPPORTUNITIES, AND PROTECTION OF DRINKING WATER

On July 24, 2008, the Subcommittee on Environment and Hazardous Materials conducted an oversight hearing on carbon capture and sequestration (CCS), the process of capturing carbon dioxide from industrial and energy-related sources before its release into the atmosphere, transporting it, and storing it in a secure location, such as an underground geologic formation.

The purpose of this hearing was to examine EPA's regulatory authority for underground carbon sequestration and assess the amount of geologic storage capacity and the opportunity to sequester carbon in the United States. Specifically, the subcommittee reviewed EPA's proposed new federal requirements under the Safe Drinking Water Act (SDWA) for the underground injection of carbon dioxide for the purpose of long-term underground storage, or geologic sequestration. The proposed regulation, which was published in the Federal Register on July 25, 2008, was issued in order to ensure protection of underground sources of drinking water from injection-related activities, and proposes a series of technical and regulatory requirements that would apply to all eligible geologic sequestration activities. Additionally, this hearing examined the risks of carbon sequestration, as well as the impacts to the environment.

The subcommittee received testimony from the Assistant Administrator of the U.S. EPA Office for Water, the Director of the Strategic Center for Coal and the U.S. Department of Energy's National Energy Technology Lab, the Research Geologist for the Energy Resources Team at the U.S. Geological Survey, and a number of witnesses representing public interest and private sector organizations.

#### HEARINGS HELD

*Environmental Protection Agency Fiscal Year 2008 Budget Request.*—Hearing on the Environmental Protection Agency's fiscal

year 2008 budget request. Hearing held March 1, 2007. PRINTED, Serial No. 110–11.

*Environmental Protection Agency Fiscal Year 2008 Budget Request.*—Hearing on the Environmental Protection Agency’s fiscal year 2008 budget request. Hearing held March 8, 2007, jointly with the Subcommittee on Energy and Air Quality. PRINTED, Serial No. 110–11.

*Perchlorate: Health and Environmental Impacts of Unregulated Exposure.*—Hearing on the health and environmental impacts of unregulated exposure to perchlorate. Hearing held April 25, 2007. PRINTED, Serial No. 110–35.

*H.R. 1524, the “Mercury Export Ban Act of 2007”.*—Hearing on H.R. 1524, the “Mercury Export Ban Act of 2007”. Hearing held June 22, 2007. PRINTED, Serial No. 110–59.

*Environmental Justice and the Toxics Release Inventory Reporting Program: Communities Have a Right to Know.*—Hearing on H.R. 1103, the Environmental Justice Act of 2007, and H.R. 1055, the Toxic Right-to-Know Protection Act. Hearing held October 4, 2007. PRINTED, Serial No. 110–71.

*S. 742 and Draft Legislation to Ban Asbestos in Products.*—Legislative hearing on S. 742 and draft legislation to ban asbestos in products. Hearing held February 28, 2008. PRINTED, Serial No. 110–96.

*H.R. 5533, the Chemical Facilities Act of 2008, and H.R. 5577, the Chemical Facility Anti-Terrorism Act of 2008.*—Legislative hearing on H.R. 5533, the Chemical Facilities Act of 2008, and H.R. 5577, the Chemical Facility Anti-Terrorism Act of 2008. Hearing held June 12, 2008. PRINTED, Serial No. 110–127.

*Carbon Sequestration: Risks, Opportunities, and Protection of Drinking Water.*—Hearing on the risks, opportunities, and protection of drinking water regarding carbon sequestration. Hearing held July 24, 2008. PRINTED, Serial No. 110–141.

*Hazardous Substance Releases and Reporting Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).*—Hearing on Hazardous Substance Releases and Reporting Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Hearing held September 24, 2008. PRINTED, Serial No. 110–151.





SUBCOMMITTEE ON HEALTH

PUBLIC HEALTH

LEGISLATIVE ACTIVITIES

NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION  
PROGRAM REAUTHORIZATION ACT OF 2007

Public Law 110–18 (H.R. 1132)

To amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

*Summary*

H.R. 1132 reauthorizes the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) for five years and amends the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

Under current law, programs funded by NBCCEDP must spend at least 60 percent of the cooperative agreement funds awarded on screening, referral, and follow-up services. The remaining 40 percent of funds awarded may be allocated toward other infrastructure development activities, including public education, professional education, quality assurance, and surveillance and evaluation efforts. While the emphasis on service provision required by the 60/40 split is appropriate for the vast majority of grantees, unique challenges exist in implementing the required 60/40 split for programs serving smaller populations. The cap on program activities that are not administrative, particularly outreach and client recruitment, has made it difficult to reach some eligible women, especially in rural States.

This legislation would allow for a waiver of the 60/40 requirement for no more than five States. This legislation would require that programs requesting a waiver provide justification and documentation that the number of women who receive preventive health and early detection services will not be reduced.

*Legislative History*

On February 16, 2007, H.R. 1132 was introduced by Representative Baldwin and referred to the Committee on Energy and Commerce.

On February 27, 2007, H.R. 1132 was referred to the Subcommittee on Health.

On March 13, 2007, the Subcommittee on Health met in an open markup session and H.R. 1132 was forwarded to the Full Committee, as amended, by a voice vote.

On March 15, 2007, the full Committee held an open markup session and H.R. 1132 was ordered favorably reported to the House, as amended, by a voice vote.

On March 27, 2007, the Committee on Energy and Commerce reported H.R. 1132 to the House, amended (H. Rept. 110–76).

On March 27, 2007 H.R. 1132 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On March 29, 2007, H.R. 1132 passed the Senate without amendment by unanimous consent, clearing the measure for the White House.

H.R. 1132 was presented to the President on April 19, 2007, and signed by the President on April 20, 2007 (Public Law 110–18).

#### TRAUMA CARE SYSTEMS PLANNING AND DEVELOPMENT ACT OF 2007

#### Public Law 110–23 (H.R. 727)

To amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes.

#### *Summary*

Trauma care systems are vital to our Nation's public health and emergency preparedness infrastructure. Strengthening title XII programs governing trauma care system planning and development will help to enhance disaster preparedness and reduce death and disability for those experiencing traumatic injury.

H.R. 727 removes authorization for the National Clearinghouse on Trauma Care and Emergency Medical Services. This legislation allows the Secretary to make grants to public and private nonprofit entities to carry out demonstration projects to improve emergency medical services in rural areas by increasing communication and coordination with State trauma systems. It also revises the matching requirements for States to be eligible for grants to improve emergency medical services in rural areas.

H.R. 727 prohibits the Secretary from making trauma care grants to a State unless the State's emergency medical services plan coordinates planning for trauma systems with State disaster emergency planning and bioterrorism hospital preparedness planning. This legislation requires the Secretary to update the model plan for the designation of trauma centers and for triage, transfer, and transportation policies and directs the Secretary to enter into a contract with the Institute of Medicine or another appropriate entity to conduct a study on trauma care and trauma systems research.

#### *Legislative History*

On January 30, 2007, H.R. 727 was introduced by Representative Green and referred to the Committee on Energy and Commerce.

H.R. 727 was referred to the Subcommittee on Health on February 2, 2007.

On March 13, 2007, the Subcommittee on Health met in an open markup session and H.R. 727 was forwarded to the full Committee, amended, by a voice vote.

On March 15, 2007, the Committee held an open markup session and H.R. 727 was ordered favorably reported to the House, as amended, by a voice vote.

On March 27, 2007, the Committee on Energy and Commerce reported H.R. 727 to the House, amended (H. Rept. 110–77).

On March 27, 2007, H.R. 727 passed the House, as amended, under suspension of the rules, by a voice vote, two-thirds having voted in favor.

On March 29, 2007, H.R. 727 passed the Senate without amendment by unanimous consent, clearing the measure for the White House.

H.R. 727 was presented to the President on April 24, 2007, and signed by the President on May 3, 2007 (Public Law 110–23).

#### FOOD AND DRUG ADMINISTRATION AMENDMENTS ACT OF 2007

Public Law 110–85 (H.R. 3580, S. 1082, H.R. 1165, H.R. 1494, H.R. 1561, H.R. 2589, H.R. 2592, H.R. 2791, H.R. 2900)

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices, to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, and for other purposes.

#### *Summary*

##### Prescription Drug User Fee Amendments of 2007

The Prescription Drug User Fee Act (PDUFA), originally enacted in 1992, provides an additional revenue source for the Food and Drug Administration to supplement appropriations from Congress. These resources are used to expedite review of drug and biologic product approval applications and subsequent drug safety monitoring. PDUFA requires pharmaceutical companies to pay application fees for each new product and supplements to existing products, annual manufacturing establishment fees, and annual product fees. PDUFA expired on September 30, 2007, prompting congressional action for its third reauthorization.

Impetus for PDUFA peaked during the late 1980s, as frustration grew among industry, consumers, and Government over the length of time between submission of a product application to FDA and the agency's final approval decision. Prior to PDUFA, FDA review of a new drug or a new biologic for sale in the United States took a median time of 29 months. Industry pressed for shorter review times in order to bring their drugs and biologics to market sooner and consumers argued for faster access to potentially life-saving products. FDA, citing a lack of sufficient appropriations from Congress, concluded that they needed extra resources to hire additional scientists to expedite the review process. Manufacturers agreed to the establishment of user fees that would be used to supplement, not replace, direct appropriations from Congress for FDA.

The original 1992 law establishing user fees, Public Law 102–571, commonly referred to as PDUFA I, was reauthorized in 1997 (PDUFA II) and 2002 (PDUFA III). Each reauthorization has built

upon the foundation of PDUFA I by adding components for decreased review times and increased consumer safety.

User fees are a substantial part of FDA's budget. The FY2006 program level for FDA's human drugs program was approximately \$517.5 million, of which 42.5 percent was from user fees. The median time between an application for a new drug or biologic license has decreased from 29 months in 1987 to less than 14 months in fiscal year 2003. HHS has concluded that user fees have resulted in significant increases in patient access to new drugs and biologics.

Title I of H.R. 3580 reauthorizes the prescription drug user fee program through fiscal year (FY) 2012. Changes to the prescription drug user fee program fall into three major categories: enhancements to ensure sound financial footing for the human drug review program, enhancements for premarket review of human drug applications, and enhancements to modernize and transform the postmarket safety system.

Title I includes the Administration's request for an increase in the total annual user fees collected to \$392.8 million for FY 2008, an \$87.4 million increase over the current base. The increases in fees take into account inflation and increased resources needed to conduct certain activities. Title I also expands the amount and scope of fees devoted to postmarket safety, providing for an additional \$225 million in user fees that will be collected over five years. These additional funds are intended to be used for drug safety activities and are intended to supplement and not supplant any other drug safety resources. There will be a dollar-for-dollar decrease in user fees collected for these additional drug safety activities for every dollar appropriated for the same purpose.

Title I establishes a new program to assess, collect, and use fees for the voluntary review of prescription drug direct-to-consumer (DTC) television advertisements. This title also requires FDA to consult with other stakeholders such as consumer and patient advocates during the negotiations for PDUFA V.

#### Medical Device User Fee Amendments of 2007

The Medical Device User Fee and Modernization Act (MDUFMA), originally enacted in 2002, provided an additional revenue source for the Food and Drug Administration to supplement appropriations from Congress. These user fees provide FDA with additional resources to review medical devices. MDUFMA amended the Federal Food, Drug, and Cosmetic Act in three significant ways: (1) it established user fees for premarket review of devices; (2) it allowed establishment inspections to be conducted by accredited persons (third parties); and (3) it instituted new regulatory requirements for reprocessed single-use devices. MDUFMA expired on October 1, 2007, prompting congressional action for reauthorization.

Unsafe medical devices can have serious consequences for consumers. Problems with the procedures and equipment for HIV and hepatitis C laboratory tests led to hundreds of incorrect test results in 2004. Defects in other types of medical devices, such as pacemakers, defibrillators, and coronary stents, have caused patient deaths.

In the years preceding enactment of MDUFMA, FDA's medical device program suffered a long-term, significant loss of resources that undermined the program's capacity and performance. Many reviews of premarket approval applications were delayed because necessary expertise was stretched thin or unavailable, and many guidance documents were out-of-date.

FDA collects user fees that fund the device review process under the authority of MDUFMA. Over the period of FY2003 to FY2008, MDUFMA funding has increased at a much faster rate (220.1 percent) than FDA's program-level device review budget (31.3 percent). MDUFMA fees comprised less than 7 percent of FDA's program-level device review budget in FY2003, and estimates are that they will comprise more than 16 percent in FY2008.

FDA and the medical device industry supported MDUFMA. It did not take long, however, before they realized that progress would be limited by financial shortfalls and uncertainties. MDUFMA outlined both the amount Congress was expected to appropriate to the program and the amount expected to be collected in user fees for each fiscal year. In practice, however, the user fee framework under MDUFMA created uncertainty for industry and FDA regarding the annual increase in fees and the amount of funds that would be collected by the Agency in any given year. The amount of fees collected in a given year was unpredictable because of fluctuations in the number of applications FDA received and the number of applications received for which fees may be reduced because of a small business exemption.

In response to the growing problems with the user fee program, Congress enacted the Medical Device User Fee Stabilization Act of 2005 (the Stabilization Act). This Act allowed for tolerances of up to 1 percent of the appropriations trigger for FYs 2005–2007; provided for predictable application fees by establishing fixed annual fees for FY2006 and FY2007; and expanded the definition of 'small business' for FY2006 and FY2007. The new law also limited section 502(u) to reprocessed single-use devices and eliminated the granting by FDA of device-specific waivers.

Title II of H.R. 3580 reauthorizes medical device user fees through FY 2012. Changes to the medical device program fall into two major categories: enhancements to ensure sound financial footing for the device review program, and enhancements to the process for premarket review of device applications. Medical device companies will pay 31 percent more in fees in 2008 and 8.5 percent more in each subsequent fiscal year through 2012. This will ensure fee increases over the next five years to cover anticipated costs related to rent, security, and statutorily mandated payroll and benefit increases.

In an effort to add stability to this fee program, Title II includes two new types of fees, which are intended to generate about 50 percent of the total fee revenue. The new fees are an annual establishment registration fee and an annual fee for filing periodic reports for devices approved under a premarket approval application to FDA. This title authorizes \$7,100,000 in appropriations in FY 2008 and provides for increases each year until 2012 for additional postmarket safety activities. Title II also includes provisions to streamline the third-party inspection program.

Title II also requires FDA to consult with other stakeholders such as consumer and patient advocates during the negotiations for MDUFMA III.

#### Pediatric Medical Device Safety and Improvement Act

Pediatric medical devices are used to treat or diagnose diseases and conditions in patients from birth through age 21. Some products are designed specifically for children, while others are borrowed from adult applications or produced for more general use.

Children have specific medical needs that must be considered when medical and surgical devices are prescribed. Devices that have not been studied for use in children may not accommodate the unique needs of children, such as allowing for expandable growth, and accommodating their active lifestyles and differing metabolism.

FDA addressed premarket review of medical devices intended for pediatric patients by issuing a guidance in May 2004. In this guidance, FDA defined the age ranges for pediatric subpopulations, identified the types of information needed to provide reasonable assurance of the safety and effectiveness of medical devices intended for use in the pediatric population, and described the protections that sponsors should consider for pediatric subjects involved in device clinical trials.

An Institute of Medicine (IOM) report found that it was difficult to reliably identify post-market studies that considered pediatric issues or that more generally focused on children. The report recommended that FDA, NIH, Agency for Healthcare Research and Quality, and other research funding agencies and interested parties set priorities for research on unanswered questions about the safe use of devices for children.

Title III of H.R. 3580 provides incentives to device manufacturers to create medical devices specifically designed to meet the needs of pediatric patients. It also gives FDA the authority to review these devices in a manner distinct from devices in general, and to require post-market studies to ensure the continued safety and effectiveness of pediatric devices.

Title III modifies the existing humanitarian device exemption (HDE) for medical devices to allow manufacturers of HDE-approved devices specifically designed to meet a pediatric need to make a profit from the sale of such devices.

Title III authorizes FDA to establish a mechanism to track the number and types of devices approved specifically for children or for conditions that occur in children. Title III also grants explicit authority to FDA's Pediatric Advisory Committee to monitor the use of pediatric devices and to make recommendations for improving their availability and safety.

#### Pediatric Research Equity Act of 2007; Best Pharmaceuticals for Children Act of 2007

Approximately 75 percent of drugs and a large majority of devices used in pediatric medicine have not been appropriately tested for use in children. Clinicians, however, often prescribe them for children believing that the safety and effectiveness demonstrated with adults will apply to younger patients. Unfortunately, this off-

label prescribing can result in children receiving ineffective drugs or too much or too little of a potentially useful drug.

The market for any individual drug's pediatric indications is generally small, providing an economic disincentive for manufacturers to commit resources to pediatric testing. The result is that few marketed drugs have been tested for safety and effectiveness in children. In some tragic cases, children have died or suffered serious injury as a result of either taking drugs that are shown safe for use in adults or from a medical device that worked properly in adults, but had different results when used in children. A March 2007 study, "Off-label Drug Use in Hospitalized Children," published in the *Archives of Pediatric Adolescent Medicine*, found that 78.7 percent of pediatric patients discharged from the hospital during the time period of the study used at least one drug off-label.

Prior to the enactment of the Pediatric Research Equity Act (PREA) and the Best Pharmaceuticals for Children Act (BPCA), most therapies commonly used by children failed to provide instructions for pediatric use. Historically, approximately 80 percent of medication labels in the Physician's Reference Directory did not have pediatric use information. At least 62 percent of drugs on the market were unstudied and labeled for pediatric use.

PREA stated that a manufacturer submitting an application to market a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration must at the same time submit a pediatric assessment. If the disease course and drug effects are sufficiently similar for adults and children, the HHS Secretary may allow extrapolation from adult study data as evidence of pediatric effectiveness.

For products already on the market, PREA grants the HHS Secretary the authority to require the manufacturer of an approved drug or licensed biologic to submit a pediatric assessment in situations in which the absence of pediatric use information on the label could pose significant risks.

BPCA renewed FDA's authority to give an additional six month period of marketing exclusivity to a manufacturer in return for FDA-requested pediatric use studies and reports. Since pediatric exclusivity, as originally defined in the Food and Drug Administration Modernization Act (FDAMA), did not apply to products no longer covered by patent (off-patent) or other marketing exclusivity agreements, and since patent holding manufacturers could decline to conduct FDA-requested studies, BPCA added provisions to encourage pediatric research in those products. For off-patent products, BPCA established an off-patent NIH research fund for these studies and authorized appropriations until the sunset on October 1, 2007. BPCA also granted pediatric supplemental applications priority status to address the concern that pediatric exclusivity did not lead to quick changes in drug labels.

Pediatric exclusivity has resulted in more than 132 completed studies leading to over 114 label changes incorporating new pediatric information. In a March 2007 report to Congress entitled "Pediatric Drug Research: Studies Conducted Under Best Pharmaceuticals for Children Act," the U.S. Government Accountability Office (GAO) noted that these labeling changes were often made as a result of findings by the pediatric drug studies that children may

have been exposed to ineffective drugs, ineffective dosing, overdosing, or previously unknown side effects.

Title IV of H.R. 3580 reauthorizes FDA's authority to require a manufacturer of a drug or biologic who submits an application to market a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration to also submit a pediatric assessment.

Title IV grants the Secretary of HHS the authority to require pediatric tests in appropriate circumstances through 2012. Provisions of current law that allow a deferral of pediatric tests for new products are strengthened. The standard for requiring tests for drugs currently being marketed is also strengthened. Requirements with respect to labeling drugs are strengthened to ensure that they reflect in a timely way the results of studies.

Title V reauthorizes, for five years, FDA's authority to grant an additional six months marketing exclusivity to a manufacturer of a drug in return for FDA-requested pediatric use studies and reports. Title V also includes provisions to encourage pediatric research for products that are off-patent or for products whose manufacturer declines to conduct FDA-related studies.

Title V increases to 180 days the time limit that the Secretary has for deciding whether or not to grant exclusivity. This title also strengthens labeling requirements to ensure that labels reflect study results in a timely and consistent fashion.

#### Titles VI–IX. Reagan-Udall Foundation; Conflicts of Interest; Clinical Trials Databases; Risk Evaluation and Mitigation Strategies

Following several high-profile drug safety cases in 2004, the GAO wrote a report in March 2006 entitled, "Drug Safety: Improvement Needed in FDA's Postmarket Decision-Making and Oversight Process." In its report, the GAO found that FDA lacked clear and effective processes for making decisions about, and providing management oversight of, postmarket drugs safety issues.

FDA then commissioned the Institute of Medicine to write a report on drug safety. In its report, "The Future of Drug Safety: Promoting and Protecting the Health of the Public," IOM raised several concerns: FDA and the pharmaceutical industry do not consistently demonstrate accountability and transparency to the public about safety concerns in a timely and effective fashion; the drug safety system is impaired by serious resource constraints that weaken the quality and quantity of the science; and an organizational structure in the Center for Drug Evaluation and Research (CDER) is not functioning properly and being hindered by unclear, insufficient regulatory authority.

Four titles in this bill address the concerns raised by the GAO and IOM reports: Title VI, Reagan-Udall Foundation; Title VII, Conflicts of Interest for FDA Advisory Committees; Title VIII, Clinical Trials Registry Database; and Title IX, Clinical Trials Results Database, and Risk Evaluation and Mitigation Strategies (REMS).

Title VI addresses the concern that, over the last decade, fewer new medical products have been submitted to the FDA for approval because the use of outmoded testing methods is resulting in a rising product failure rate during development. Newer technologies need new methods for their assessment. Allowing FDA to collabo-



rate with other researchers will contribute greatly to filling this void.

Title VI creates the Reagan-Udall Foundation for the Food and Drug Administration. The purpose of the Foundation is to establish a private-public partnership to advance FDA's Critical Path Initiative to modernize medical product development, accelerate innovation, and enhance product safety. Title VI sets forth the duties of the Foundation to include identifying unmet needs in the sciences of developing, manufacturing, and evaluating the safety and effectiveness of diagnostics, devices, biologics, and drugs.

Title VII addresses concerns that advisory panels might be influenced by conflicts of interest. FDA relies heavily on the recommendations of its 30 advisory committees in its assessment of product safety and benefit. There has been concern that members of these committees may not be operating in the most judicious manner due to industry funding or other financial interests. It is important that more safeguards are put into place to ensure that advisory committee members are serving with integrity and with the best interest of the consumer in mind.

Title VII requires all individuals under consideration for appointment to serve on an advisory committee to disclose to the Secretary all financial interests that would be affected by the advisory committee's actions. The Secretary shall determine the aggregate percentage of waivers provided in fiscal year 2007. The Secretary will then be required to decrease the number of waivers by five percent for each of fiscal years 2008 through 2012. Disclosure of waivers must be made public 15 or more days prior to the meeting of the advisory committee and must be posted on the Internet.

Title VII enhances FDA's outreach activities for identifying non-conflicted experts to participate on advisory committees and directs the Secretary to review guidance on conflict of interest waiver determinations with respect to advisory committees at least once every five years and update this guidance as necessary.

Title VIII establishes a comprehensive, mandatory clinical trials registry database and clinical trials results database. This addresses concerns raised by the IOM's report on drug safety in regard to the need for FDA to increase the availability of information to the public and to researchers for recruitment purposes and to communicate the risks and benefits of drugs. A uniform, centralized database and registry will help patients, providers, and researchers learn new information and make more informed healthcare decisions.

Title VIII expands the existing publicly available clinical trials registry data bank in three phases. First, except for preliminary studies, all clinical trials on drugs, biologics, and devices would be required to provide trial registry information. Second, trials for approved products would be required to post basic results to the data bank. Third, the Secretary shall expand the database further by rulemaking to consider the inclusion of other data elements as well as trials of unapproved products.

Title VIII also provides for civil monetary penalties for non-compliance.

Title IX is the centerpiece of this bill's attempt to enhance postmarket drug safety. A central aspect of this program is to au-

thorize FDA to require a risk evaluation and mitigation strategy (REMS) in all appropriate cases. The IOM report highlights the need to extend drug safety consideration from premarket through postmarket approval. A number of other reports suggest that cultural issues within FDA and gaps in the agency's authorities hamper the ability to take swift and effective action when problems arise. The REMS program will be enhanced by the establishment of a robust active surveillance program designed to see how drugs work in real world postmarket circumstances, which are often quite different than what is learned about a drug in the carefully controlled clinical trial setting.

Title IX strengthens FDA's postmarket drug safety authority and provides greater FDA transparency. Specifically, Title IX provides FDA with the authority to require labeling changes under appropriate circumstances and provides FDA with the authority to impose civil monetary penalties for certain violations of the Federal Food, Drug, and Cosmetic Act with respect to drugs. Specifically, this title strengthens FDA's ability to monitor and remedy false and misleading television advertising and provides an administrative procedure and CMPs for violations.

Title IX requires the Secretary to issue guidance for the conduct of clinical trials with respect to antibiotic drugs. This title prohibits food to which drugs or biological products have been added and includes provisions to increase security of the drug supply. Title IX improves the citizen petition process and makes postmarket drug safety information transparent and more accessible to the public. This title also requires the Secretary to make action packages publicly available and creates a database of approved generic drugs.

#### FOOD SAFETY; OTHER CONCERNS

The safety of the Nation's food supply was highlighted when adulterated wheat gluten imported from China and used for pet food sickened or killed a number of dogs and cats. Wheat gluten was later found in some hog, chicken, and fish feed. FDA announced in June 2007 that it was detaining all imports of certain types of farm-raised seafood from China until their shippers could confirm that they did not contain unapproved drug residues.

In addition to the problems with adulteration of products from China, outbreaks of *E. coli* in spinach, *Salmonella* in peanut butter, and botulism in chili sauce here in the U.S. brought renewed attention to the risks posed by accidental food contamination.

Title X requires the Secretary to establish processing and ingredient standards with respect to pet food and ingredient definitions. The Secretary is also required to update standards for pet food labeling that include nutritional and ingredient information. Title X requires the Secretary to establish an early warning and surveillance system to identify adulteration of the pet food supply and outbreaks of illness associated with pet food.

Title X provides improved communication requirements during an ongoing recall of human or pet food including posting information regarding recalled products on FDA's website in a consolidated, searchable form that is easily accessed and understood by the public. This title requires the Secretary to work with States in

undertaking activities that assist in improving the safety of fresh and processed produce.

Title X requires the Secretary to establish a Reportable Food Registry to which instances of reportable food may be submitted by FDA and requires the Secretary to issue an alert in certain instances. This title also requires the Secretary to immediately notify the Secretary of Homeland Security if the Secretary suspects such food may have been deliberately adulterated.

Title XI requires the Secretary to establish and make publicly available, clear written policies to govern the timely clearance of articles written by FDA employees. Title XI provides an incentive, through a priority review voucher, to develop new drug, biologic, and device products to treat neglected or tropical diseases.

Title XI provides reporting and study requirements for FDA regarding genetic test safety and quality. This title also provides incentives for the development of certain antibiotics and exclusivity for enantiomers.

#### *Legislative History*

On June 28, 2007, H.R. 2900 was introduced by Representative Dingell and referred to the Committee on Energy and Commerce.

On July 11, 2007, H.R. 2900 was reported by the Committee on Energy and Commerce (H. Rept. 110–225) and considered in the House under suspension of the rules. H.R. 2900 passed the House by a rollcall vote: 403–16. On July 16, 2007, H.R. 2900 was received in the Senate.

Further action was taken on a subsequent measure, H.R. 3580, introduced by Representative Dingell on September 19, 2007. It was referred to the Committee on Energy and Commerce.

On September 19, 2007, H.R. 3580 passed the House under suspension of the rules by a rollcall vote: 405–7.

On September 20, 2007, H.R. 3580 passed the Senate without amendment by unanimous consent, clearing the measure for the White House.

On September 26, 2007, H.R. 3580 was presented to the President and signed by the President on September 27, 2007 (Public Law 110–85).

#### CHARLIE W. NORWOOD LIVING ORGAN DONATION ACT

##### Public Law 110–144 (H.R. 710)

To amend the National Organ Transplant Act to provide that criminal penalties do not apply to human organ paired donation, and for other purposes.

#### *Summary*

H.R. 710 amends the National Organ Transplant Act to provide that, for the purpose of provisions that prohibit the transfer of any human organ for use in human transplantation for valuable consideration, human organ paired donation does not involve such a transfer. It also creates a definition for “human organ paired donation.” In addition, the bill requires the Secretary of Health and Human Services to report to Congress on the progress made toward

understanding the long-term health effects of living organ donation.

#### *Legislative History*

On January 29, 2007, H.R. 710 was introduced by Mr. Norwood and referred to the Committee on Energy and Commerce. On February 2, 2007, H.R. 710 was referred to the Subcommittee on Health.

On March 6, 2007, H.R. 710 was considered in the House under suspension of the rules. The yeas and nays were demanded and further proceedings of the motion were postponed.

On March 7, 2007, H.R. 710 passed the House, as amended, under suspension of the rules by a rollcall vote: 422–0.

On July 9, 2007, H.R. 710 passed the Senate, amended, by unanimous consent.

On December 4, 2007 the House agreed to the Senate amendment with amendments pursuant to H. Res. 837.

On December 6, 2007, the Senate agreed to the House amendment to the Senate amendment and the House amendment to the title of bill by unanimous consent and H.R. 710 was cleared for the White House.

On December 11, 2007, H.R. 710 was presented to the President and was signed by the President on December 21, 2007 (Public Law 110–144).

TO AMEND TITLE 39, UNITED STATES CODE, TO EXTEND THE AUTHORITY OF THE UNITED STATES POSTAL SERVICE TO ISSUE A SEMIPOSTAL TO RAISE FUNDS FOR BREAST CANCER RESEARCH

Public Law 110–150 (S. 597, H.R. 1236)

#### *Summary*

S. 597 amends title 39, United States Code, to extend the provisions authorizing the USPS to issue a special postage stamp to support breast cancer research to 2011. In addition, S. 597 also requires NIH to prepare reports on spending of the proceeds from sales of the breast cancer research stamp.

#### *Legislative History*

On February 28, 2007, H.R. 1236 was introduced by Representative Clay. It was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On March 1, 2007, H.R. 1236 was referred to the Subcommittee on Health.

On October 10, 2007, the Subcommittee on Health met in open markup session and forwarded H.R. 1236 to the full Committee, amended, by a voice vote.

On October 16, 2007, the Committee on Energy and Commerce met in open markup session and H.R. 1236 was ordered reported, as amended by a voice vote.

On October 25, 2007, the Committee on Energy and Commerce reported H.R. 1236 to the House, amended (H. Rept. 110–409, Part 1).

On October 30, 2007, H.R. 1236 passed the House, amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On November 1, 2007, H.R. 1236 was received in the Senate, read twice and referred to the Committee on Homeland Security and Governmental Affairs.

On December 12, 2007, H.R. 1236 the Committee on Homeland Security and Governmental Affairs referred H.R. 1236 to the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security.

Further action was taken on S. 597, a related measure.

On February 14, 2007, S. 597 was introduced by Senator Feinstein referred to the Senate Committee on Homeland Security and Government Affairs.

On November 7, 2007, the Senate Committee on Homeland Security and Governmental Affairs reported S. 597 to the Senate (S. Rept. 110–222).

On November 14, 2007, S. 597 passed the Senate, amended, by unanimous consent. On November 15, 2007, S. 597 was received in the House.

On December 11, 2007, S. 597 passed the House, amended, under suspension of them rules by a voice vote, two-thirds having voted in favor.

On December 13, 2007, the Senate concurred in the House amendments by unanimous consent, clearing the measure for the White House.

On December 19, 2007, S. 597 was presented to the President and on December 21, 2007, the President signed the measure (Public Law 110–150).

TO RENAME THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT AS THE EUNICE KENNEDY SHRIVER NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

#### Public Law 110–154 (S. 2484)

A bill to rename the National Institute of Child Health and Human Development as the Eunice Kennedy Shriver National Institute of Child Health and Human Development.

#### *Summary*

Since its establishment by 1962, the National Institute of Child Health and Human Development has achieved an outstanding record of achievement in advancing child health and human development, including significant efforts to: reduce dramatically the rates of Sudden Infant Death Syndrome, infant mortality, and maternal HIV transmission; develop the Haemophilus Influenza B (Hib) vaccine, credited with nearly eliminating the incidence of mental retardation; and conduct intramural research, support extramural research, and train thousands of child health and human development researchers who have contributed greatly to dramatic gains in child health throughout the world.

Eunice Kennedy Shriver, a tireless advocate for children with special needs, was instrumental in proposing, passing, and enacting legislation to establish the National Institute of Child Health and Human Development (Public Law 87–838) on October 17, 1962.

S. 2484 amends the Public Health Service Act to rename the National Institute of Child Health and Human Development as the “Eunice Kennedy Shriver National Institute of Child Health and Human Development.”

#### *Legislative History*

On December 13, 2007, S. 2484 was introduced by Senator Hatch, read twice, considered, read the third time, and passed the Senate without amendment by unanimous consent.

On December 17, 2007, S. 2484 was received in the House, considered and passed under suspension of the rules by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

On December 19, 2007, S. 2484 was presented to the President and was signed by the President on December 21, 2007 (Public Law 110–154).

#### CHIMP HAVEN IS HOME ACT

#### Public Law 110–170 (S. 1916)

A bill to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes.

#### *Summary*

S. 1916 amends the Public Health Service Act to repeal provisions providing for the removal of surplus chimpanzees from a sanctuary facility and prohibits use of such chimpanzees for research except for noninvasive behavioral studies.

#### *Legislative History*

On August 1, 2007, S. 1916 was introduced by Senator Burr, and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On December 12, 2007, S. 1916 was reported, amended, without written report by the Senate Committee on Health, Education, Labor, and Pensions.

On December 13, 2007, S. 1916 passed the Senate, amended, by unanimous consent.

On December 17, 2007, S. 1916 was received in the House and referred to the House Committee on Energy and Commerce. That same day, S. 1916 was referred to the Subcommittee on Health.

On December 19, 2007, the Committee on Energy and Commerce was discharged from further consideration of the measure. S. 1916 was considered in the House by unanimous consent and passed the House without objection. This action cleared S. 1916 for the White House.

On December 21, 2007, S. 1916 was presented to the President and signed by the President on December 26, 2007 (Public Law 110–170).

THE SAFETY OF SENIORS ACT OF 2008

Public Law 110–202 (S. 845, H.R. 3701)

To amend the Public Health Service Act to direct the Secretary of Health and Human Services to intensify programs with respect to research and related activities concerning falls among older adults.

*Summary*

Falls represent a serious health risk for millions of older Americans. In the United States, one of every three persons age 65 or older falls each year. Falls are the leading cause of injury deaths and the most common cause of injuries and hospital admissions for trauma in older adults. According to the Centers for Disease Control and Prevention (CDC), in 2002, more than 12,800 people aged 65 and older died from fall-related injuries and more than 1.6 million seniors were treated in emergency departments for fall-related injuries.

In addition to their effect on the quality of life of seniors and their families, falls also contribute to rising healthcare costs due to increased physician visits, emergency room use, and hospitalization. According to the CDC, the direct medical cost totaled \$179 million for fatal and \$19 billion for nonfatal fall injuries in 2000.

S. 845 directs HHS to oversee and support national and local education campaigns focusing on reducing falls and preventing repeat falls among older adults. It also amends the Public Health Service Act to authorize the Secretary of Health and Human Services to: (1) oversee and support a national education campaign focusing on reducing falls among older adults and preventing repeat falls; and (2) award grants, contracts, or cooperative agreements to design and carry out local education campaigns.

S. 845 allows the Secretary to conduct and support research to: (1) improve the identification of older adults who have a high risk of falling; (2) improve data collection and analysis to identify fall risk and protective factors; (3) design, implement, and evaluate the most effective fall prevention interventions; (4) tailor effective strategies to reduce falls to specific populations of older adults; (5) maximize the dissemination of proven, effective fall prevention interventions; (6) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and (7) assess the risks of falls occurring in various settings.

S. 845 also authorizes the Secretary to: (1) conduct research concerning the barriers to the adoption of proven fall prevention interventions; (2) conduct research to develop, implement, and evaluate the most effective approaches to reduce falls among high-risk older adults living in communities and long-term care and assisted living facilities; (3) evaluate the effectiveness of community programs; (4) provide professional education for physicians and allied health professionals in fall prevention; (5) oversee and support specified demonstration and research projects; (6) award grants to design, imple-

ment, and evaluate fall prevention programs using proven intervention strategies and carry out a multistate demonstration project; (7) give priority in awarding grants under this Act to entities that explore the use of cost-sharing to ensure the institutional commitment of the recipients of such assistance to the funded projects; and (8) report to Congress on the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing associated health care costs.

#### *Legislative History*

On September 27, 2007, H.R. 3701 was introduced by Representative Pallone and referred to the Committee on Energy and Commerce. That same day, H.R. 3701 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 3701 to the full Committee, amended, by a voice vote.

On March 13, 2008, the full Committee met in an open markup session and H.R. 3701 was ordered reported, as amended, by a voice vote.

On April 8, 2008, H.R. 3701 was reported to the House, amended, by the Committee on Energy and Commerce (H. Rept. 110–569).

Further action was taken on S. 845, a related Senate measure, which was introduced on March 12, 2007, by Senator Enzi and referred to the Senate Committee on Health, Education, Labor and Pensions.

On March 29, 2007, the Senate Committee on Health, Education, Labor and Pensions reported S. 845, with an amendment in the nature of a substitute, to the Senate.

On June 28, 2007, the Senate Committee on Health, Education, Labor, and Pensions filed a written report on S. 845 (S. Rept. 110–110).

On August 1, 2007, S. 845 passed the Senate, amended, by unanimous consent.

On August 2, 2007, the bill was received in the House and referred to the House Committee on Energy and Commerce. That same day, S. 845 was referred to the Subcommittee on Health.

On April 8, 2008, S. 845 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

On April 14, 2008, S. 845 was presented to the President. The President signed the measure on April 23, 2008 (Public Law 110–202).

#### THE NEWBORN SCREENING SAVES LIVES ACT OF 2007

##### Public Law 110–204 (S. 1858, H.R. 3825)

To amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated follow-up care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.



### *Summary*

Newborn screening provides early identification and follow-up for treatment of infants affected by certain genetic, metabolic, hormonal, and functional conditions for which there may be an effective treatment or intervention. If left untreated, these disorders can cause death, disability, mental retardation, and other serious conditions. Every year, more than 4 million infants are born and screened to detect conditions that could threaten their lives and long-term health, and an estimated 3,000 babies are identified and treated for such conditions.

While newborns are regularly screened and treated for debilitating conditions in some States, in others screening may not be required and conditions may go undiagnosed and untreated. In 2004, the American College of Medical Genetics completed a report commissioned by the U.S. Department of Health and Human Services (HHS) recommending, at a minimum, that every baby born in the U.S. be screened for a core set of 29 treatable disorders regardless of the State in which he or she is born. At present, only 15 States and the District of Columbia require infants to be screened for all 29 of the recommended disorders. An estimated 1,000 of the 5,000 babies born every year in the United States with one of the 29 core conditions potentially go unscreened through newborn screening.

S. 1858 will educate parents and healthcare providers about newborn screening, improve follow-up care for infants with an illness detected through newborn screening, and help States expand and improve their newborn screening programs, as well as provide for Federal guidelines on the conditions for which newborns in all States should be screened.

S. 1858 amends the Public Health Service Act to authorize the Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration (HRSA), to award grants to eligible entities to: (1) provide screening, counseling, or health care services to newborns and children having or at risk for heritable disorders; (2) provide education and training in newborn screening and congenital, genetic, and metabolic disorders to health care professionals and newborn screening laboratory personnel; (3) develop and deliver educational programs about newborn screening, counseling, testing, follow-up, treatment, and specialty services to parents, families, and patient advocacy and support groups; and (4) establish, maintain, and operate a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders.

In addition, S. 1858 requires the Advisory Committee on Heritable Disorders in Newborns and Children to make recommendations that include the heritable disorders for which all newborns should be screened and develop a model decision-matrix for newborn screening program expansion.

S. 1858 requires the Secretary, acting through the Administrator, to establish a central clearinghouse for information on newborn screening and award grants for newborn screening educational programs and for a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders.

The bill also requires the HHS Secretary, through the Director of the Centers for Disease Control and Prevention (CDC), to pro-

vide for: quality assurance for screening laboratories; population-based pilot testing for evaluating new screening tools; and a national contingency plan for newborn screening in the event of a public health emergency.

S. 1858 requires the HHS Secretary, through an Interagency Group, to: collect, analyze, and make available data on certain heritable disorders; and operate regional centers to conduct applied epidemiological research on interventions to prevent poor health outcomes from such disorders. The bill requires the HHS Secretary to establish the Hunter Kelly Newborn Screening Research Program.

#### *Legislative History*

On October 15, 2007, H.R. 3825 was introduced by Representative Roybal-Allard and referred to the Committee on Energy and Commerce. On October 16, 2007, H.R. 3825 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 3825 to the full Committee, amended, by a voice vote.

On March 13, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 3825 was ordered favorably reported, as amended, by a voice vote.

On April 8, 2008, the Committee on Energy and Commerce reported H.R. 3825 to the House, amended (H. Rept. 110–570).

Further action was taken on S. 1858, a related measure, which was introduced by Senator Dodd on July 23, 2007 and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On December 5, 2007, the Senate Committee on Health, Education, Labor and Pensions reported S. 1858 to the Senate with an amendment in the nature of a substitute (a written report, S. Rept. 110–280, was filed on April 8, 2008).

On December 13, 2007, S. 1858 passed the Senate, amended, by unanimous consent.

On December 17, 2007, S. 1858 was received in the House and referred to the Committee on Energy and Commerce. That same day, the measure was referred to the Subcommittee on Health.

On April 8, 2008, S. 1858 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

On April 14, 2008, S. 1858 was presented to the President. The President signed the bill on April 24, 2008 (Public Law 110–204).

#### TRAUMATIC BRAIN INJURY ACT OF 2008

Public Law 110–206 (S. 793, H.R. 1418)

To provide for the expansion and improvement of traumatic brain injury programs.

#### *Summary*

According to the Centers for Disease Control and Prevention (CDC), of the 1.5 million Americans who sustain a traumatic brain injury (TBI) each year, around 50,000 die and another 80,000 to 90,000 experience long-term or lifelong disabilities as a result.

Traumatic brain injuries can result in disability and the need for help to perform daily living activities.

TBI is different from other disabilities due to the severity of cognitive loss. Most rehabilitation programs are designed for people with physical disabilities, not cognitive disabilities that require special accommodations. Finding needed services is typically a logistical, financial, and psychological challenge for family members and other caregivers, because few coordinated systems of care exist for individuals with TBI.

The passage of the Traumatic Brain Injury Act of 1996 has improved TBI service systems at the State level and has increased the overall visibility of TBI. More work, however, needs to be done at both the national and State levels to build an effective, durable service system that meets the needs of individuals with TBI.

S. 793 requires the HHS Secretary, acting through the Director of the CDC, to conduct a study to: determine the incidence of TBI and prevalence of TBI related disability; report national trends in TBI; identify common therapeutic interventions that are used for the rehabilitation of individuals with such injuries; identify interventions and therapies that can prevent or remediate the development of secondary neurologic conditions related to TBI; and develop practice guidelines for such rehabilitation.

In addition, S. 793 authorizes appropriations for fiscal years 2009 through 2012 for NIH's trauma research program; allows the Secretary, acting through the Administrator of HRSA, to make grants to States and American Indian consortia to improve access to rehabilitation and other services regarding TBI; and directs the Administrator to grant funds for training and technical assistance to protection and advocacy systems, if funds permit.

S. 793 also revises the national program for TBI registries to include grants for State TBI surveillance systems and requires the Administrator and the Commissioner of the Administration on Developmental Disabilities to coordinate the collection of data regarding protection and advocacy services.

S. 793 requires an interagency report within 18 months after the date of enactment to determine the incidence and prevalence of traumatic brain injury among those who were formerly in the military, to examine the extent to which care is coordinated, and to provide information about appropriate employment, housing, rehabilitation, and other services.

#### *Legislative History*

On March 8, 2007, H.R. 1418 was introduced by Representative Pascrell and referred to the Committee on Energy and Commerce. On March 9, 2007, H.R. 1418 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 1418 to the full Committee, amended, by a voice vote.

On March 13, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1418 was ordered reported, as amended, by a voice vote.

On April 8, 2008 the Committee on Energy and Commerce reported H.R. 1418 to the House, amended (H. Rept. 110-567).

Further action was taken on S. 793, a related measure introduced by Senator Hatch on March 7, 2007; it was referred to the Senate Committee on Health, Education, Labor and Pensions.

On August 1, 2007, the Senate Committee on Health, Education, Labor and Pensions reported S. 793 to the Senate with an amendment in the nature of a substitute (S. Rept. 110–140).

On December 11, 2007, S. 793 passed the Senate, amended, by unanimous consent.

On December 12, 2007, S. 793 was received in the House and referred to the House Committee on Energy and Commerce. That same day, the bill was referred to the Subcommittee on Health.

On April 8, 2008, the House then passed S. 793, amended, under suspension of the rules by a rollcall vote: 392–1.

On April 10, 2008, the Senate agreed to the House amendment by unanimous consent, clearing the measure for the White House.

On April 17, 2008, S. 793 was presented to the President. On April 28, 2008, S. 793 was signed by the President (Public Law 110–206).

#### GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008

##### Public Law 110–233 (H.R. 493)

To prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

##### *Summary*

Deciphering the sequence of the human genome and other advances in genetics have opened major new opportunities for medical progress. The information gleaned from the Human Genome Project will help, and is currently helping, scientists and clinicians to identify common genetic variations that contribute to disease. In many cases, the results of genetic testing may be used to guide clinical management of patients. For example, more frequent screening may be recommended for individuals at increased risk of certain diseases by virtue of their genetic make-up, such as colorectal and breast cancer. Decisions about course of treatment and dosing may also be guided by genetic testing. Many diseases, however, do not have any treatments. In these cases, the benefits of genetic testing lie largely in the information they provide an individual about his or her risk of future disease or current disease status. The value of genetic information in these cases is personal to individuals, who may choose to utilize this information to help guide medical and other life decisions for themselves and their families. This information can affect decisions about reproduction, the types or amount of health, life, or disability insurance to purchase, or career and education choices.

These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment. Concerns about privacy and the use and misuse of genetic information need to be balanced with the potential of genetics and genetic technology to change how care is delivered and to personalize medical care and treatment of disease.

A January 20, 1998, a joint report put forth by the Department of Labor, the Department of Health and Human Services (HHS),

the Equal Employment Opportunity Commission (EEOC), and the Department of Justice (DoJ), entitled, 'Genetic Information and the Workplace,' summarized the various studies on discrimination based on genetic information and argued for the enactment of Federal legislation. The joint report stated that, 'genetic predisposition or conditions can lead to workplace discrimination, even in cases where workers are healthy and unlikely to develop disease or where the genetic condition has no effect on the ability to perform work.' With these misconceptions so prevalent, employers may come to rely on genetic testing to 'weed out' those employees who carry genes associated with diseases. The joint report concluded that existing protections are minimal and called for the enactment of legislation which states that: 1) employers should not require or request that employees or potential employees take a genetic test or provide genetic information as a condition of employment or benefits; 2) employers should not use genetic information to discriminate against, limit, segregate, or classify employees; and 3) employers should not obtain or disclose genetic information about employees or potential employees under most circumstances.

The joint report acknowledged that genetic testing has the unique ability to detect and prevent health disorders, but pointed out that this information can be misused to discriminate against or stigmatize individuals seeking health insurance. It is feared that a health insurance company might wrongly view the presence of a gene mutation to mean that the person would definitely contract the disease with which that gene is associated and improperly deny that person insurance coverage. The report cited a 1996 survey of individuals at risk of developing a genetic condition and parents of children with specific genetic conditions. This report identified more than 200 cases of genetic discrimination among the 917 people who responded. The cases involved discrimination by insurance companies, employers, and other organizations that use genetic information. Another survey of genetic counselors, primary care physicians, and patients, identified 550 people who had been denied employment or insurance based on their genetic predisposition to an illness. In addition, because an individual's genetic information has implications for his or her family members and future generations, misuse of genetic information could have inter-generational effects that are far broader than any individual incident of misuse. Furthermore, the joint report warned that many Americans are reluctant to take advantage of new breakthroughs in genetic testing for fear that the results will not be used to improve their health, but rather to deny them jobs or health insurance.

The appropriate use of genetic information offers enormous opportunities to save lives and prevent the onset of disease. However, the medical progress made possible by genetic research is dependent on the willingness of study volunteers and patients to undergo genetic testing. Such consent may be difficult to obtain today. Fears about the possible misuse or unauthorized disclosure of genetic information appear to adversely impact the desire of individuals to participate in genetic research. Such fears also extend to clinical practice, discouraging both patients and providers from taking full advantage of genetic tests and technologies. There is substantial reluctance among at-risk populations to undergo genetic

testing—even when that testing may allow patients to take steps to lower their risks of contracting a disease. For example, only 43 percent of those at risk for hereditary colon cancer participated in a genetic testing program. Later studies found that 39 percent of those who declined testing cited fears about the potential effect of test results on their health insurance coverage as the primary reason for their refusal. Although other factors contribute to the decision not to get tested, fear of genetic discrimination appears to be a primary reason that many people forgo getting genetic tests.

To fill the void created by the absence of clear protections at the Federal level, many States have enacted laws that seek to prohibit genetic discrimination in health insurance and employment. To date, 34 States, and the District of Columbia, have passed laws on genetic discrimination in employment and 48 have passed laws on genetic discrimination in health insurance. Among the States that prohibit discrimination in the issuing of health insurance, many cover only the group health insurance market and exclude individual health insurance policies, while others do the reverse. Many States exclude family medical histories from their definition of genetic information or include only the results of tests that are performed with the announced intention of detecting genetic mutations.

Regardless of the technical aspects of any particular State law, there is necessarily a significant gap in any State's ability to deter genetic discrimination in health insurance. Congress delegated to the States the authority to regulate most aspects of insurance through enacting the McCarran-Ferguson Act of 1945. However, employer-purchased plans were exempted from State regulation by the Employee Retirement Income Security Act of 1974. Under ERISA, no State may regulate the type of health insurance plans typically provided to employees as part of their employment benefits. Only the Congress can therefore enact a truly comprehensive law prohibiting genetic discrimination in all areas of health insurance. Federal genetic nondiscrimination legislation addresses the need for national comprehensive protections.

The Genetic Information Nondiscrimination Act (GINA) amends the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act (PHSA), and the Internal Revenue Code to prohibit a group health plan from adjusting premium or contribution amounts for a group on the basis of genetic information.

It amends title XVIII (Medicare) of the Social Security Act (SSA) to prohibit an issuer of a Medicare supplemental policy, on the basis of genetic information, from: (1) denying or conditioning the issuance or effectiveness of the policy, including the imposition of any exclusion of benefits based on a preexisting condition; or (2) discriminating in the pricing of the policy, including the adjustment of premium rates.

It also prohibits an issuer of a Medicare supplemental policy from: (1) requesting or requiring an individual or a family member to undergo a genetic test; or (2) requesting, requiring, or purchasing genetic information for underwriting purposes or for any individual prior to enrollment. Further, it requires the Secretary of Health and Human Services to revise Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulations to: (1)

treat genetic information as health information; and (2) prohibit the use or disclosure by a group health plan, health insurance coverage, or Medicare supplemental policy of genetic information about an individual for underwriting purposes.

The Act also amends the PHSA to prohibit: (1) a health insurance issuer offering health insurance coverage in the individual market from establishing eligibility rules for enrollment based on genetic information; (2) discrimination on the basis of genetic information for health insurance offered in the individual market in the same manner as such discrimination is prohibited for group coverage; and (3) the imposition by a health insurance issuer offering health insurance coverage in the individual market of a preexisting condition exclusion on the basis of genetic information.

GINA also prohibits a group health plan from requesting or requiring an individual or family member of an individual from undergoing a genetic test or purchasing genetic information. Further, it prohibits an employer, employment agency, labor organization, or joint labor-management committee from discriminating against an employee, individual, or member because of genetic information. Further, it prohibits an employer, employment agency, labor organization, or joint labor-management committee from limiting, segregating, or classifying employees, individuals, or members because of genetic information in any way that would deprive or tend to deprive such individuals of employment opportunities or otherwise adversely affect their status as employees.

#### *Legislative History*

On January 16, 2007, H.R. 493 was introduced by Representative Slaughter. It was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On February 2, 2007, H.R. 493 was referred to the Subcommittee on Health.

On March 5, 2007, H.R. 493 was reported to the House, amended, by the Committee on Education and Labor (H. Rept. 110–28, Part 1); and the Committees on Energy and Commerce and Ways and Means were each granted an extension for further consideration of the legislation ending not later than March 23, 2007.

On March 13, 2007, the Subcommittee on Health met in an open markup session and forwarded H.R. 493 to the full Committee, amended, by a voice vote.

On March 22, 2007, the Committee on Energy and Commerce met in open markup session and began consideration of H.R. 493. On March 23, 2007, the Committee on Energy and Commerce continued consideration of H.R. 493 in an open markup session and H.R. 493 was ordered favorably reported to the House, amended, by a voice vote. The House Committees on Energy and Commerce and Ways and Means were each granted an extension for further consideration of the legislation ending not later than March 26, 2007.

On March 26, 2007, H.R. 493 was reported to the House, as amended, by the Committee on Ways and Means (H. Rept. 110–28,

Part 2); and the Committee on Energy and Commerce was granted an extension for further consideration ending not later than March 29, 2007.

On March 29, 2007, H.R. 493 was reported to the House, amended, by the Committee on Energy and Commerce (H. Rept. 110–28, Part 3).

On April 19, 2007, the Committee on Energy and Commerce filed a supplemental report on the bill (H. Rept. 110–28, Part 4).

On April 25, 2007, H.R. 493 passed the House, amended, under suspension of the rules, by a rollcall vote: 420–3.

On April 24, 2008, H.R. 493 passed the Senate, amended, by a rollcall vote: 95–0.

On April 28, 2008, the Senate requests return of papers with respect to H.R. 493 by Unanimous Consent. On April 29, 2008, papers were returned to the Senate and message on Senate action was sent to the House.

On May 1, 2008, the House agreed to the Senate amendment by a rollcall vote: 414–1, clearing H.R. 493 for the White House.

On May 1, 2008, H. Con. Res. 340, making technical changes to the enrollment of H.R. 493, passed the House by a voice vote and passed the Senate by unanimous consent.

H.R. 493 was presented to the President on May 19, 2008, and was signed by the President on May 21, 2008 (Public Law 110–233).

#### FOOD, CONSERVATION, AND ENERGY ACT OF 2008

Public Law 110–234 (H.R. 2419)

Public Law 110–246 (H.R. 6124)

(Health Provisions)

To provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

#### *Summary*

H.R. 2419 authorizes the Secretary to award grants to eligible entities located in the Delta region for the development of health care services; health education programs; health care job training programs; and expansion of public health-related facilities to address longstanding and unmet health needs of the region. It also reauthorizes research grants under the Food, Agriculture, Conservation, and Trade Act of 1990 that address health issues that affect food-producing animals, food safety, and the environment. Further, H.R. 2419 extends the human nutrition initiative, the health promotion program, and the animal health and disease research program to 2012.

H.R. 2419 also requires establishments that produce food to notify the Secretary if they believe, or have reason to believe, that an adulterated or misbranded meat or meat food product received by or originating from the establishment has entered into commerce. Each establishment must also prepare and maintain current procedures for the recall of all meat or meat food products produced and shipped by the establishment; document each reassessment of the



process control plans of the establishment; and upon request, make the procedures and reassessed process control plans available to inspectors.

#### *Legislative History*

On May 22, 2007, H.R. 2419 was introduced by Representative Peterson. It was referred to the Committee on Agriculture, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 19, 2007, the Committee on Agriculture met in an open markup session and H.R. 2419 was ordered reported, amended, by a voice vote.

On July 23, 2007, H.R. 2419 was reported to the House, amended, by the Committee on Agriculture (H. Rept. 110-256, Part 1). The Committee on Foreign Affairs was discharged from further consideration of the measure.

On July 26, 2007, the House began consideration of H.R. 2419 under the provisions of H. Res. 574.

On July 27, 2007, H.R. 2419 passed the House, amended, by a rollcall vote: 231-191.

On September 4, 2007, H.R. 2419 was received in the Senate, read the first time and placed on Senate Legislative Calendar under Read the First Time.

On September 5, 2007, H.R. 2419 was read the second time and placed on Senate Legislative Calendar under General Orders, Calendar No. 339.

On November 6, 2007, H.R. 2419 was considered by the Senate and a motion by Mr. Reid to commit to Senate Committee on Agriculture, Nutrition, and Forestry with instructions to report back forthwith, with the following amendment (SA 3512) was made in the Senate.

On December 14, 2007, H.R. 2419 passed the Senate, amended, by a rollcall vote: 79-14. The Senate insisted on its amendment and requested a conference.

On February 2, 2008, the Senate appointed conferees: Senators Harkin, Leahy, Conrad, Baucus, Lincoln, Stabenow, Chambliss, Lugar, Cochran, Roberts, and Grassley.

On April 9, 2008, the House disagreed with the Senate amendment, and agreed to a conference by a voice vote. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of sections 6012, 6023, 6024, 6028, 6029, 9004, 9005, and 9017 of the House bill and sections 6006, 6012, 6110-6112, 6202, 6302, 7044, 7049, 7307, 7507, 9001, 11060, 11072, 11087, and 11101-11103 of the Senate amendment, and modifications committed to conference: Representatives Dingell, Pallone, Barton.

On May 13, 2008, the conference report was filed in the House (H. Rept. 110-627).

On May 14, 2008, the House agreed to the conference report by a rollcall vote: 318-106.

On May 15, 2008, the Senate agreed to the conference report by a rollcall vote: 81-15.

On May 20, 2008, H.R. 2419 was presented to the President.

On May 21, 2008, H.R. 2419 was vetoed by the President. That same day, H.R. 2419 passed the House over the Presidential veto by a rollcall vote: 316–108, two-thirds having voted in the affirmative.

On May 22, 2008, H.R. 2419 passed the Senate over veto by a rollcall vote: 82–13, two-thirds having voted in the affirmative. H.R. 2419 became law (Public Law 110–234).

The House and Senate passed H.R. 2419 over veto, enacting 14 of 15 titles into law. The trade title (Title III) was inadvertently excluded from the enrolled bill. To remedy the situation, both chambers re-passed the farm bill conference agreement (including the trade title) as H.R. 6124, again over veto. H.R. 6124, in section 4, repeals Public Law 110–234 (H.R. 2419) and amendments made by it, effective on the date of that Act's enactment.

On May 22, 2008, H.R. 6124 was introduced and referred to the Committee on Agriculture and the Committee on Foreign Affairs.

That same day, H.R. 6124 passed the House under suspension of the rules by a rollcall vote: 306–110. H.R. 6124 was received by the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders, Calendar No. 753.

On June 5, 2008, the Senate passed H.R. 6124 by a rollcall vote: 77–15.

On June 16, 2008, H.R. 6124 was presented to the President.

On June 18, 2008, H.R. 6124 was vetoed by the President. The Chair laid before the House the veto message from the President. H.R. 6124 passed the House over the veto by a rollcall vote: 317–109, two-thirds having voted in the affirmative. The veto message was received by the Senate. H.R. 6124 passed the Senate over the veto by a rollcall vote: 80–14, two-thirds having voted in the affirmative. H.R. 6124 became law (Public Law 110–246).

#### TO MAKE TECHNICAL CORRECTIONS REGARDING THE NEWBORN SCREENING SAVES LIVES ACT OF 2007

Public Law 110–237 (H.R. 5919)

To make technical corrections regarding the Newborn Screening Saves Lives Act of 2007.

#### *Summary*

H.R. 5919 amends the Public Health Service Act to make technical corrections to the Newborn Screening Saves Lives Act of 2007. It revises the authorizations of appropriations from FY2008–FY2012 to FY2009–FY2013.

#### *Legislative History*

On April 29, 2008, H.R. 5919 was introduced by Representative Roybal-Allard and referred to the Committee on Energy and Commerce.

On April 30, 2008, H.R. 5919 was considered under suspension of the rules and passed the House by a voice vote.

On May 2, 2008, H.R. 5919 passed the Senate, without amendment, by unanimous consent, clearing the measure for the White House.

On May 19, 2008, H.R. 5919 was presented to the President and signed by the President on May 27, 2008 (Public Law 110–237).

CAROLINE PRYCE WALKER CONQUER CHILDHOOD CANCER ACT OF 2008

Public Law 110–285 (H.R. 1553)

To amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to information regarding pediatric cancers and current treatments for such cancers, establish a national childhood cancer registry, and promote public awareness of pediatric cancer.

#### *Summary*

Between infancy and 15 years of age, cancer is the leading cause of death by disease among U.S. children. In 2007, approximately 10,400 new cases of pediatric cancer were diagnosed in children ages 0 to 14 years. While the incidence of invasive cancer in children has increased slightly over the past 30 years, mortality has declined dramatically for many childhood cancers. The combined 5-year survival rate for all childhood cancers has improved from less than 50 percent before the 1970s to nearly 80 percent today, and the 10-year survival rate is greater than 75 percent.

Despite these advances, treatments for some childhood cancers, including brain tumors and neuroblastoma, are inadequate. Two-thirds of children who are successfully treated experience serious and long-term effects from treatment. Negative effects resulting from current pediatric cancer therapies indicate a need to strengthen Federal support for activities leading to an enhanced understanding of childhood cancers and treatments that are less toxic and more effective.

H.R. 1553 requires the HHS Secretary, in collaboration with the Director of the National Institutes of Health and other Federal agencies to continue to enhance, expand, and intensify pediatric cancer research and other activities related to pediatric cancer.

In addition, H.R. 1553 allows the HHS Secretary to award grants to childhood cancer professional and direct service organizations for the expansion and widespread implementation of activities that provide available information on treatment protocols; activities that provide available information on the late effects of pediatric cancer treatment; and direct resource services.

H.R. 1553 requires the HHS Secretary, acting through the Director of the Centers for Disease Control and Prevention, to award a grant to enhance and expand infrastructure to track the epidemiology of pediatric cancer for a comprehensive nationwide registry of actual occurrences of pediatric cancer.

#### *Legislative History*

On March 15, 2007, H.R. 1553 was introduced by Representative Pryce and referred to the Committee on Energy and Commerce. On March 16, 2007, H.R. 1553 was referred to the Subcommittee on Health.

On April 23, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 1553 to the full Committee, amended, by a voice vote.

On May 7, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1553 was ordered favorably reported, amended, by a voice vote.

On June 10, 2008, the Committee on Energy and Commerce reported H.R. 1553 to the House, amended (H. Rept. 110–706).

On June 12, 2008, H.R. 1553 passed the House, amended, under suspension of the rules by a rollcall vote: 416–0.

On July 16, 2008, H.R. 1553 passed the Senate, without amendment, by unanimous consent and was cleared for the White House.

On July 25, 2008, H.R. 1553 was presented to the President and signed by the President on July 29, 2008 (Public Law 110–285).

TOM LANTOS AND HENRY J. HYDE UNITED STATES GLOBAL LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA REAUTHORIZATION ACT OF 2008

Public Law No: 110–293 (H.R. 5501)

To authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

*Summary*

Title I amends the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 Act to revise the provisions of the President’s comprehensive five-year global strategy to combat HIV/AIDS. These revisions include commissioning a study by the Institute of Medicine to assess progress and outcomes of U.S. global HIV/AIDS programs; publishing a best practices report; and providing for oversight of the program.

Title I expands the Coordinator’s of United States Government Activities to Combat HIV/AIDS Globally duties, including establishment of an interagency working group on HIV/AIDS, and coordination of overall U.S. HIV/AIDS policy and programs with host countries and other relevant bilateral and multilateral aid agencies. Title II authorizes FY2009–FY2013 appropriations for U.S. contributions to tuberculosis vaccine development programs; the Vaccine Fund; the International AIDS Vaccine Initiative; the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health (PATH); and the U.S. contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

Title II directs the office of AIDS Research, the National Institute of Allergy and Infectious Diseases and the Centers for Disease Control and Prevention to conduct microbicide research and development of methods to prevent HIV transmission.

Title II also authorizes USAID to strengthen the capacity of developing countries to introduce new and safe vaccines; and improve implementation of, clinical trials and impact studies.

Title III revises and expands the scope of HIV/AIDS prevention activities, including spreading activities to countries in Central Asia, Eastern Europe, and Latin America; and integrating food security and nutrition activities into HIV/AIDS prevention activities.

Title III authorizes the President, through USAID, to provide increased resources to the World Health Organization (WHO) and the Stop Tuberculosis Partnership to improve the capacity of coun-

tries with high tuberculosis rates and other affected countries to implement the Stop TB Strategy and specific strategies related to drug resistant tuberculosis.

Title III also authorizes the President to make a U.S. contribution to the Roll Back Malaria Partnership and WHO to improve the capacity of countries with high rates of malaria and other affected countries to implement comprehensive malaria control programs. Further, it directs the President to establish a five-year strategy to combat global malaria.

Title III revises requirements of the five-year strategy to combat HIV/AIDS as it pertains to mother-to-child transmission, care and treatment of family members, and care for children orphaned by HIV/AIDS.

Title IV directs the Coordinator to: (1) provide balanced funding for prevention activities for sexual transmission of HIV/AIDS; (2) ensure that abstinence, delay of sexual debut, monogamy, fidelity and partner reduction programs are implemented and funded in each host country's strategy; and (3) establish an HIV sexual transmission prevention strategy governing funding to prevent the sexual transmission of HIV in any host country with a generalized epidemic.

It also requires that for FY2009–FY2013 more than half of appropriations for bilateral global HIV/AIDS assistance shall be expended for: (1) antiretroviral treatment; (2) clinical monitoring of HIV-seropositive people not in need of antiretroviral treatment; (3) care for associated opportunistic infections; (4) nutrition and food support for people living with HIV/AIDS; and (5) other essential medical care for people living with HIV/AIDS.

Title V directs the Secretary of State to increase by \$1 the fee for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and non-immigrant visas.

Title VI establishes the Emergency Fund for Indian Safety and Health and authorizes appropriations for that fund. It also directs the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services, in consultation with Indian tribes, to establish an emergency plan that addresses law enforcement, water, and health care needs of Indian tribes for every year from FY2010–FY2019.

#### *Legislative History*

On February 27, 2008, H.R. 5501 was introduced by Representative Berman. It was referred to the Committee on Foreign Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On March 10, 2008, the Committee on Foreign Affairs reported H.R. 5501 to the House (H. Rept. 110–546, Part 1). The Committee on Financial Services was discharged from further consideration of the measure.

On March 10, 2008, the Committee on Foreign Affairs filed a supplemental report on the bill (H. Rept. 110–546, Part 2).

On April 2, 2008, H.R. 5501 was considered under the provisions of H. Res. 1065 and passed the House, amended, by a rollcall vote: 308–116.

On April 3, 2008, H.R. 5501 was received in the Senate, read twice and referred to the Committee on Foreign Relations.

On July 16, 2008, the Senate Committee on Foreign Relations was discharged from further consideration of H.R. 5501 by unanimous consent.

On July 16, 2008, H.R. 5501 passed the Senate, amended, by a rollcall vote: 80–16.

On July 24, 2008, the House agreed to the Senate amendment by a rollcall vote: 303–115, clearing the measure for the White House.

On July 25, 2008, H.R. 5501 was presented to the President and H.R. 5501 was signed by the President on July 30, 2008 (Public Law 110–293).

#### ANIMAL DRUG USER FEE AMENDMENTS OF 2008

Public Law 110–316 (H.R. 6432, H.R. 6433)

To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes.

#### *Summary*

#### ADUFA II

The Animal Drug User Fee Act of 2003 (ADUFA) establishes the animal drug user fee program. The program provides an additional revenue source for the Food and Drug Administration (FDA) to supplement appropriations from Congress for the purpose of expediting the review of animal drug applications. Before ADUFA was enacted, there were reports from FDA detailing inadequate resources for review, growing workloads, and low quality applications submitted by the industry. These problems combined were responsible for slowing down the animal drug approval process to an unacceptable rate.

In response to these problems, ADUFA was enacted. The program requires that manufacturers of new animal drugs pay application fees for each new product, annual manufacturing establishment fees, annual product fees, and sponsor fees in an effort to expedite the animal drug review process. FDA sets performance goals, mutually agreed upon by FDA and the regulated industry. The fees are used to meet the performance goals. Fees currently represent about 13 percent of the agency's budget for animal drug review and for 60 full-time equivalent employees.

There is general agreement that ADUFA has been successful in eliminating the review backlog and has improved the timeliness and predictability of reviews. ADUFA expired on October 1, 2008, prompting congressional action for its reauthorization.

Title I of H.R. 6432 reauthorizes ADUFA (ADUFA II) from FY 09 to FY 13 with increases of total fee revenues for application and

supplement fees, product fees, establishment fees, and sponsor fees. Title I requires the Secretary to report to Congress and make publicly available information on: progress toward the goal of expediting the animal drug development process and the review of animal drug applications; and implementation of the authority for and use of animal drug fees.

Title I also requires the sponsor of any new animal drug that contains an antimicrobial active ingredient to annually report to the Secretary on the amount of each antimicrobial active ingredient in the drug that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product. It also authorizes the Secretary to share such information with the Antimicrobial Resistance Task Force.

### AGDUFA

In Congressional testimony in June 2008, the Food and Drug Administration (FDA) reported that in fiscal year 2007, the average review time for generic animal drug submissions was 570 days and that there was a backlog of 446 of these submissions, almost double the number in fiscal year (FY) 2000.

In order to alleviate this backlog, a user fee for generic animal drug submissions from FY 09 to FY 13 is proposed. Using ADUFA as a model, Title II (Animal Generic Drug User Fee Act) of H.R. 6432 would provide funding for increased review of generic animal drug submissions, for training and development of staff members, and for refining business processes and developing policies to allow more efficient review of generic animal drug submissions.

Under the Animal Generic Drug User Fee Act (AGDUFA) user-fee proposal, FDA would agree to meet review performance goals to improve the timeliness and predictability of the animal generic drug review process. These performance goals are intended to achieve progressive yearly improvements, shortening the time for FDA to review and act on submissions with each fiscal year. By the fifth and final year of the proposed user fees, FDA would agree to review and act on 90 percent of the sentinel submission types within specified timeframes.

The AGDUFA proposal has many similarities to the proposal for ADUFA II, such as comparable fee triggers, fee-setting requirements, workload adjustments, and reporting requirements. The major differences are that AGDUFA does not allow FDA to collect establishment fees, and FDA may only waive or reduce fees if the drug is intended for a minor use or minor species indication. Also, similar to the ADUFA II proposal, the AGDUFA proposal has fixed annual increases instead of the inflation adjuster used for the original ADUFA.

### *Legislative History*

On July 8, 2008, H.R. 6433 was introduced by Representative Pallone and referred to the Committee on Energy and Commerce. On July 9, 2008, H.R. 6433 was referred to the Subcommittee on Health.

On July 9, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 6433 to the full Committee by voice vote.

On July 16, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6433 was ordered favorably reported, amended, by a voice vote.

On July 30, 2008, H.R. 6433 was reported to the House, amended (H. Rept. 110–805).

No further action was taken on H.R. 6433 in the 110th Congress.

On July 8, 2008, H.R. 6432 was introduced by Representative Pallone and referred to the Committee on Energy and Commerce. On July 9, 2008, H.R. 6432 was referred to the Subcommittee on Health.

On July 9, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 6432 to the full Committee by a voice vote.

On July 16, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6432 was ordered favorably reported, amended, by a voice vote.

On July 30, 2008, H.R. 6432 was reported to the House, amended (H. Rept. 110–804).

On July 30, 2008, H.R. 6432 passed the House, amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On August 1, 2008, H.R. 6432 passed the Senate without amendment by unanimous consent and was cleared for the White House.

On August 6, 2008, H.R. 6432 was presented to the President and signed by the President on August 14, 2008 (Public Law 110–316).

#### ADA AMENDMENTS ACT OF 2008

#### Public Law 110–325 (S. 3406, H.R. 3195)

##### *Summary*

S. 3406 amends the Americans with Disabilities Act of 1990 (ADA) to redefine the term “disability” and sets forth rules of construction regarding the definition of “disability.” S. 3406 also clarifies the prohibition of employment discrimination against a qualified individual on the basis of disability.

##### *Legislative History*

On July 26, 2007, H.R. 3195 was introduced by Representative Hoyer. It was referred to the Committee on Education and Labor, and in addition to the Committees on the Judiciary, Transportation and Infrastructure, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 23, 2008, H.R. 3195 was reported to the House, amended, by the Committee on Education and Labor (H. Rept. 110–730, Part 1). That same day, the bill was reported to the House, amended, by the Committee on the Judiciary (H. Rept. 110–730, Part 2). The Committee on Energy and Commerce and the Committee on Transportation and Infrastructure were each discharged from further consideration of H.R. 3195.



On June 25, 2008, H.R. 3195 was considered under the provisions of H. Res. 1299 and passed the House, as amended, by a roll-call vote: 402–17.

On June 26, 2008, H.R. 3195 was received in the Senate and read the first time. H.R. 3195 was placed on the Senate Legislative Calendar under Read the First Time.

On June 27, 2008, H.R. 3195 was read the second time and placed on Senate Legislative Calendar under General Orders.

Further action was taken on S. 3406, a related measure introduced by Senator Harkin on July 31, 2008.

On September 11, 2008, S. 3406 passed the Senate, without amendment, by unanimous consent.

On September 15, 2008, S. 3406 was received by the House and held at the desk.

On September 17, 2008, S. 3406 was considered under suspension of the rules and passed the House by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

On September 23, 2008, S. 1760 was presented to the President and it was signed by the President on September 25, 2008 (Public Law 110–325).

#### HEALTHY START REAUTHORIZATION ACT OF 2007

#### Public Law 110–339 (S. 1760)

A bill to amend the Public Health Service Act with respect to the Healthy Start Initiative.

#### *Summary*

The Healthy Start Initiative was implemented to eliminate disparities in perinatal and women’s health by enhancing a community’s service system and infrastructure, and a State’s infrastructure. Healthy Start directs resources and interventions to improve access to, utilization, and full participation of comprehensive perinatal and women’s health services for high-risk women and infants. In FY 2007, 102 projects were awarded to new and existing projects.

S. 1760 amends the Public Health Service Act (PHSA) to require the Secretary of Health and Human Services (HHS) to consider certain criteria in making grants under the Healthy Start Initiative, including: factors that contribute to infant mortality, such as low birth weight; and the extent to which applicants for grants facilitate a community-based approach to the delivery of services and a comprehensive approach to women’s health care to improve perinatal outcomes.

In addition, the legislation states that the Secretary is not prevented from awarding grants for special projects that are intended to address significant disparities in perinatal health indicators in communities along the United States-Mexico border, or in Alaska or Hawaii. S. 1760 also reauthorizes appropriations for each of fiscal years 2008 through 2013 for the Healthy Start Initiative.

*Legislative History*

On July 10, 2007, S. 1760 was introduced by Senator Brown and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On April 29, 2008, S. 1760 was reported to the Senate by the Senate Committee on Health, Education, Labor, and Pensions without written report, and placed on the Senate Legislative Calendar under General Orders, Calendar No. 723.

On April 30, 2008, S. 1760 passed the Senate, amended, by unanimous consent.

On May 1, 2008, S. 1760 was received by the House and referred to the House Committee on Energy and Commerce. On May 5, 2008, S. 1760 was referred to the Subcommittee on Health.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and S. 1760 was ordered favorably reported by a voice vote.

On September 23, 2008, S. 1760 was considered under suspension of the rules and passed the House by a voice vote, two-thirds having voted in favor. This action cleared S. 1760 for the White House.

On September 26, 2008, S. 1760 was presented to the President and it was signed by the President on October 3, 2008 (Public Law 110-339).

## DRUG ENDANGERED CHILDREN ACT OF 2007

## Public Law 110-345 (H.R. 1199)

To extend the grant program for drug-endangered children.

*Summary*

H.R. 1199 amends the USA PATRIOT Improvement and Reauthorization Act of 2005 to extend the grant program for drug-endangered children through FY2009 and authorizes appropriations for FY2008 to FY2009.

*Legislative History*

On February 27, 2007, H.R. 1199 was introduced by Representative Cardoza. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On February 28, 2007, H.R. 1199 was referred to the Subcommittee on Health.

On September 24, 2007, H.R. 1199 was reported to the House by the Committee on the Judiciary (H. Rept. 110-341, Part 1). The Committee on Energy and Commerce was discharged from further consideration of the measure.

On September 24, 2007, H.R. 1199 was considered under suspension of the rules and passed the House by a rollcall vote: 389-4.

On September 25, 2007, H.R. 1199 was received in the Senate and read twice and referred to the Senate Committee on the Judiciary.

On September 24, 2008, the Senate Committee on the Judiciary was discharged from further consideration of H.R. 1199 by unanimous consent. That same day, H.R. 1199 passed the Senate without amendment by unanimous consent, clearing the measure for the White House.

H.R. 1199 was presented to the President on September 26, 2008, and signed by the President on October 7, 2008 (Public Law 110–345).

#### THE BREAST CANCER AND ENVIRONMENTAL RESEARCH ACT OF 2008

##### Public Law 110–354 (H.R. 1157)

To amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

#### *Summary*

Breast cancer is the second most common type of cancer among women in the United States. In the United States, a woman's lifetime risk of breast cancer increased steadily and dramatically over the course of the 20th century. Today, a woman's lifetime risk of breast cancer is one in eight.

With respect to environmental effects on breast cancer, research has varied widely. Some studies have linked alcohol consumption to an increased risk of the most common type of breast cancer. Other studies have suggested that infants exposed to butyl benzyl phthalate (BBP), a chemical additive used in pipes, vinyl floor tiles, carpet-backing, and other household items may affect mammary gland development and perhaps increase the susceptibility to breast cancer. Researchers have also found that bisphenol A, a chemical found in some plastic food and drink packaging, including baby bottles, may be tied to early puberty and prostate and breast cancer. Other research has shown that hormone replacement therapy may increase breast cancer risk. Breast cancer is a complex disease that occurs in an environmentally complex world. While it is generally believed that environmental factors play some role in the development of breast cancer, the full extent of that role is not yet understood.

Currently, there are several sources of Federal funding for research on the links between breast cancer and the environment. The National Institute of Environmental Health Sciences (NIEHS) and NCI have partnered to support a network of research centers in which multidisciplinary teams of scientists, clinicians, and breast cancer advocates work collaboratively on a unique set of scientific questions. In addition, the Department of Defense (DOD) has a federally-funded Breast Cancer Research Program (BCRP). Since its inception in 1992, the BCRP has funded research targeted toward the program's vision to eradicate breast cancer.

In addition to studying environmental impacts, the recently completed Human Genome Project is providing an entirely new avenue of research opportunities to better understand why some women are more likely to develop breast cancer than others. Under-

standing the relevance of genetic markers and potential predisposition to developing breast cancer are also critically important areas of cancer research that need to be further explored. The Cancer Genome Atlas project is one of several genomic research programs that could help to identify how environmental factors may or may not impact the development of breast cancer.

H.R. 1157 requires the HHS Secretary to establish the “Inter-agency Breast Cancer and Environmental Research Coordinating Committee” to coordinate all efforts within HHS and other Federal agencies that relate to breast cancer.

In addition, H.R. 1157 establishes the duties of the Coordinating Committee to include developing: a comprehensive strategy to advise Federal agencies in the solicitation of proposals for collaborative, multidisciplinary research; a summary of advances in breast cancer research supported or conducted by Federal agencies; recommendations to ensure that the activities of NIH and other Federal agencies are free of unnecessary duplication; recommendations regarding public participation in decisions relating to breast cancer research to increase the involvement of patient advocacy and community organizations representing broad geographical areas; and recommendations for expanding partnerships between public and private entities to expand collaborative, cross-cutting research.

#### *Legislative History*

On February 16, 2007, H.R. 1157 was introduced by Representative Lowey and referred to the Committee on Energy and Commerce. On February 27, 2007, H.R. 1157 was referred to the Subcommittee on Health.

On May 21, 2008, the Subcommittee on Health held a hearing on H.R. 1157. The purpose of the hearing was to explore grants and other methods for encouraging greater research into breast cancer and its connection to the environment.

On September 23, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1157 was ordered reported, amended, by a voice vote.

On September 25, 2008, H.R. 1157 was reported to the House, amended (H. Rept. 110–889).

On September 25, 2008, H.R. 1157 was considered under suspension of the rules and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On September 27, 2008, H.R. 1157 passed the Senate, without amendment, by unanimous consent, clearing the measure for the White House.

On September 30, 2008, H.R. 1157 was presented to the President and signed by the President on October 8, 2008 (Public Law 110–354).

#### HEALTH CARE SAFETY NET ACT OF 2008

Public Law 110–355 (H.R. 1343, S. 901, H.R. 1646, H.R. 5544, H.R. 870, H.R. 2915, H.R. 4230)

To amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act, and for other purposes.

### *Summary*

Health centers are an important component of the healthcare safety net for vulnerable populations, including Medicaid beneficiaries, people who are uninsured, and others who may have difficulty obtaining access to health care. For more than 40 years, community health centers have provided comprehensive, culturally competent, quality primary healthcare services—including preventive, diagnostic, treatment, emergency services, and referrals to specialty care—to medically underserved communities and vulnerable populations without access to such services. Where medically necessary, community health centers also provide enabling services, such as transportation and translation that help patients gain access to care. Patients are charged for services based on their ability to pay, on a sliding-fee scale.

Recruitment and retention of adequate numbers of qualified workers are major concerns for many healthcare providers today. In addition to concerns about the overall supply of healthcare professionals, the distribution of available providers is an ongoing public health concern. Many Americans live in areas—including isolated rural areas or inner city neighborhoods—that lack a sufficient number of healthcare providers. Approximately 50 million people live in communities without access to primary health care.

The National Health Service Corps (NHSC) is one safety net program that directly places primary care physicians and other health professionals in these medically needy areas. The NHSC offers scholarships and educational loans for healthcare professionals who, in turn, agree to serve in communities that have a shortage of healthcare providers. Since its establishment in 1970, the NHSC has placed nearly 27,000 health professionals in communities that report chronic shortages of health professionals. Currently, more than 4,000 clinicians and healthcare professionals provide primary care to nearly 4 million people nationwide.

H.R. 1343 reauthorizes programs under Section 330 of the Public Health Service Act to authorize appropriations for health centers to meet the healthcare needs of medically underserved populations from FY 2008–FY 2012.

H.R. 1343 requires the Comptroller General to study the economic costs and benefits of school-based health centers and their impact on the health of students, including an analysis of: (1) the impact that federal funding could have on the operation of such centers; (2) any cost savings to other federal programs derived from providing health services in such centers; and (3) the impact of such centers in rural or underserved areas.

H.R. 1343 also directs the Comptroller General to study: (1) integrated health system models for the delivery of health care services to medically underserved and uninsured populations; and (2) the implications of extending Federal Tort Claims Act coverage to health care professionals who volunteer to furnish care to patients of health centers.

Further, H.R. 1343 requires the Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration (HRSA), to submit a report to the relevant congressional committees that describes efforts to expand and accelerate quality improvement activities in community health

centers. It also requires the Administrator to establish a mechanism for the dissemination of initiatives, best practices, and other information that may assist health care quality improvement efforts in community health centers.

Finally, H.R. 1343 reauthorizes appropriations for FY2008–FY2012 for: (1) the National Health Service Corps program; and (2) the National Health Service Corps Scholarship Program and National Health Service Corps Loan Repayment Program.

#### *Legislative History*

On March 6, 2007, H.R. 1343 was introduced by Representative Green and referred to the Committee on Energy and Commerce. On March 7, 2007, H.R. 1343 was referred to the Subcommittee on Health.

On December 4, 2007, the Subcommittee on Health held a hearing on H.R. 1343. The purpose of the hearing was to explore the need for the expansion of community health centers and continuation of the National Health Service Corps.

On April 23, 2008, the Subcommittee on Health met in an open markup session and H.R. 1343 was forwarded to the full Committee, amended, by a voice vote.

On May 7, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1343 was ordered favorably reported, amended, by a voice vote.

On June 4, 2008, H.R. 1343 was reported to the House, amended, (H. Rept. 110–680).

On June 4, 2008, H.R. 1343 was considered under suspension of the rules and passed the House, as amended, by a rollcall vote: 393–24.

On June 5, 2008, H.R. 1343 was received in the Senate, read twice and referred to the Committee on Health, Education, Labor and Pensions.

On September 24, 2008, the Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of H.R. 1343 by unanimous consent. That same day, H.R. 1343 passed the Senate, amended, by unanimous consent.

On September 25, 2008, the House considered the Senate amendment under suspension of the rules and agreed to the Senate amendment by a voice vote, two-thirds having voted in favor. This action cleared H.R. 1343 for the White House.

On September 30, 2008, H.R. 1343 was presented to the President. It was then signed by the President on October 8, 2008 (Public Law 110–355).

PAUL D. WELLSTONE MUSCULAR DYSTROPHY COMMUNITY ASSISTANCE,  
RESEARCH, AND EDUCATION AMENDMENTS OF 2008

#### Public Law 110–361 (H.R. 5265)

To amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal, muscular dystrophies.

### *Summary*

The muscular dystrophies (MD) are a group of more than 30 genetic diseases characterized by progressive weakness and degeneration of the skeletal muscles that control movement. The disorders differ in terms of the distribution and extent of muscle weakness, age of onset, rate of progression, and pattern of inheritance. Duchenne MD is the most common form of MD and primarily affects boys. It is caused by the absence of dystrophin, a protein involved in maintaining the integrity of muscle. Onset is between 3 and 5 years and the disorder progresses rapidly. Most boys are unable to walk by age 12, and later need a respirator to breathe. There is no specific treatment to stop or reverse any form of MD.

The prognosis for people with MD varies according to the type and progression of the disorder. Some cases may be mild and progress very slowly over a normal lifespan, while others produce severe muscle weakness, functional disability, and loss of the ability to walk. Some children with MD die in infancy while others live into adulthood with only moderate disability.

The National Institute of Neurological Disorders and Stroke (NINDS), part of the NIH, supports a broad program of research studies on MD. The goals of these studies are to understand MD and to develop techniques to diagnose, treat, prevent, and ultimately cure the disorder.

H.R. 5265 amends the Public Health Service Act to reauthorize programs at NIH and the Centers for Disease Control and Prevention (CDC) for research on various forms of muscular dystrophy. Further, it designates the Muscular Dystrophy (MD) Centers of Excellence as the Paul D. Wellstone Muscular Dystrophy Cooperative Research Centers. It also allows the interagency coordinating committee for muscular dystrophy to give special consideration to enhancing the clinical research infrastructure required to test emerging therapies for the various forms of muscular dystrophy.

H.R. 5265 allows the HHS Secretary to ensure that any data on patients that is collected as part of the Muscular Dystrophy Surveillance, Tracking, and Research Network (MD STARnet) be regularly updated to reflect changes in patient condition over time. In addition, H.R. 5265 requires the CDC Director to report to the appropriate congressional committees on MD STARnet and data collection and may provide prospective health outcome data on the health and survival of people with muscular dystrophy.

H.R. 5265 also allows the CDC Director, in carrying out a program to provide information and education on muscular dystrophy to health professionals and the general public, to partner with leaders in the muscular dystrophy patient community and widely disseminate the Duchenne-Becker muscular dystrophy (DBMD) care considerations.

### *Legislative History*

On February 7, 2008, H.R. 5265 was introduced by Representative Engel and referred to the Committee on Energy and Commerce. That same day, H.R. 5265 was referred to the Subcommittee on Health.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 5265 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, H.R. 5265 was considered under suspension of the rules. On September 24, 2008 H.R. 5265 passed the House, as amended, by a rollcall vote: 418–2.

On September 26, 2008, H.R. 5265 passed the Senate, amended, by unanimous consent.

On September 27, 2008, the House agreed to the Senate amendment to H.R. 5265 by unanimous consent, clearing the measure for the White House.

On September 30, 2008, H.R. 5265 was presented to the President and was signed by the President on October 8, 2008 (Public Law 110–361).

#### ALS REGISTRY ACT

Public Law 110–373 (H.R. 2295, S. 1382)

To amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

#### *Summary*

A single national patient registry that collects and stores information on the prevalence and incidence of ALS does not exist in the United States today. The establishment of a national registry will help identify the incidence and prevalence of ALS and other related motor neuron disorders in the United States as well as the etiology of the diseases. The patient registry would collect data that is urgently needed for ALS research, disease management, and the development of standards of care in order to significantly enhance the Nation's efforts to find a treatment and cure for ALS and other related motor neuron disorders.

S. 5 would provide for the creation and maintenance of a single nationwide ALS Registry at the Centers for Disease Control and Prevention (CDC). The registry would collect key data and information as determined by a newly created Federal Advisory Committee on the National ALS Registry. The ALS Registry Act would build upon Fiscal Year 2006 and Fiscal Year 2007 congressional appropriations of \$887,000, in each of those years, which directed CDC to evaluate the science to guide the creation of a national ALS Registry. Currently, there are three pilot projects being conducted at Mayo Clinic, Rochester, MN; the South Carolina Office of Research and Statistics; and Emory University.

#### *Legislative History*

On May 14, 2007, H.R. 2295 was introduced by Representative Engel and referred to the Committee on Energy and Commerce. That same day, the bill was referred to the Subcommittee on Health.

On July 19, 2007, the Subcommittee on Health met in an open markup session and H.R. 2295 was forwarded to the full Committee, amended, by a voice vote.



On September 27, 2007, the Committee held an open markup session and H.R. 2295 was ordered favorably reported to the House, as amended, by a voice vote.

On October 15, 2007, H.R. 2295 was reported to the House, amended (H. Rept. 110–379).

On October 15, 2007, H.R. 2295 was considered under suspension of the rules and, on October 16, 2007, passed the House, as amended, by a rollcall vote: 411–3.

On October 17, 2007, H.R. 2295 was received in the Senate.

On October 30, 2007, H.R. 2295 was read the first time and placed on the Senate Legislative Calendar under read the first time.

Further action was taken on S. 1382, a related measure.

On May 14, 2007, S. 1382 was introduced by Senator Reid and referred to the Senate Committee on Health, Education, Labor and Pensions.

On December 4, 2007, S. 1382 was reported by the Committee on Health, Education, Labor and Pensions with an amendment in the nature of a substitute and placed on the Senate Legislative Calendar.

On September 23, 2008, S. 1382 passed the Senate, amended, by unanimous consent.

On September 24, 2008, S. 1382 was received in the House and held at the desk.

On September 25, 2008, S. 1382 was considered under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On September 26, 2008, S. 1382 was considered as unfinished business and passed the House by a rollcall vote: 415–0.

On October 8, 2008, S. 1382 was signed by the President (Public Law 110–373).

#### PRENATALLY AND POSTNATALLY DIAGNOSED CONDITIONS AWARENESS ACT

Public Law 110–374 (S. 1810, H.R. 3112)

A bill to amend the Public Health Service Act to increase the provision of scientifically sound information and support services to patients receiving a positive test diagnosis for Down syndrome or other prenatally and postnatally diagnosed conditions.

#### *Summary*

Pregnant women receiving a prenatal disease or condition diagnosis, such as Down syndrome, spina bifida, cystic fibrosis, and other congenital conditions, do not have consistent access to sufficient, up-to-date information and support services. Down syndrome, the most commonly identified cause of mental retardation, occurs in about 1 in 800 births. In addition, studies have indicated that the data necessary to understand, monitor, and provide health care for prenatally diagnosed conditions is not currently readily available.

S. 1810 aims to ensure that patients receiving a positive test diagnosis for Down syndrome or other prenatally diagnosed conditions have timely access to scientifically sound information and

adequate support services. Additionally, this legislation strives to increase the knowledge base surrounding prenatally diagnosed conditions by granting HHS the resources and authority to more accurately monitor trends.

S. 1810 amends the Public Health Service Act to require the Secretary of Health and Human Services to authorize and oversee certain activities relating to Down syndrome or other prenatally or postnatally diagnosed conditions. S. 1810 includes among such activities the awarding of grants, contracts or cooperative agreements to eligible entities to: collect, synthesize, and disseminate current evidence-based information relating to such conditions; and coordinate the provision of, and access to, new or existing supportive services for patients receiving a positive diagnosis for such conditions.

The bill requires the Secretary to place an emphasis on funding partnerships between health care professional groups and disability advocacy organizations in distributing funds. S. 1810 also requires a grantee under this Act to make available to health care providers of parents who receive a prenatal or postnatal diagnosis: up-to-date, evidence-based, written information concerning the range of outcomes for individuals living with the diagnosed condition; and contact information regarding support services. S. 1810 also requires the information provided to be culturally and linguistically appropriate and to be approved by the Secretary.

This legislation also requires the Government Accountability Office (GAO) to report to Congress concerning the effectiveness of current health care and family support programs serving as resources for the families of children with disabilities.

#### *Legislative History*

On July 19, 2007, H.R. 3112 was introduced by Representative Sensenbrenner and referred to the Committee on Energy and Commerce. That same day, H.R. 3112 was referred to the Subcommittee on Health.

On April 23, 2008, the Subcommittee on Health met in an open markup session and H.R. 3112 was forwarded to the full Committee, amended, by a voice vote.

Further action was taken on S. 1810, a related measure, which was introduced by Senator Brownback on July 18, 2007, and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On April 21, 2008, S. 1810 was reported by the Senate Committee on Health, Education, Labor, and Pensions with an amendment in the nature of a substitute, without written report.

On September 23, 2008, S. 1810 passed the Senate, amended, by unanimous consent.

On September 24, 2008, S. 1810 was received in the House and referred the Committee on Energy and Commerce.

On September 25, 2008, S. 1810 was considered under suspension of the rules and passed the House by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

On September 29, 2008, S. 1810 was presented to the President who signed the bill on October 8, 2008 (Public Law 110-374).

THE POISON CENTER SUPPORT, ENHANCEMENT, AND AWARENESS ACT  
OF 2008

Public Law 110–377 (H.R. 5669, S. 2932)

To amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

*Summary*

Unintentional poisoning is a significant problem, ranking second only to motor vehicle crashes as a cause of unintentional injury and death in 2005. The economic cost is also considerable as poisonings led to \$26 billion in medical expenses in 2000.

While it is widely recognized that unintentional exposure to hazardous household substances occurs among preschool-aged children, it is less well known that poisoning affects people across their lifespan. For instance, unintentional drug overdose and suicide deaths are more likely to occur among adolescents and young adults, while the elderly are at high risk for poisoning because of the possibility of mixing medications or taking the wrong dosage. Poison control centers respond to calls dealing with all of these issues.

The Poison Control Center Enhancement and Awareness Act was originally enacted in 2000 and amended in 2003 to stabilize poison control center operations. While centers supported by the Act were intended to provide an emergency safety net, they did not always ensure consistent, effective, and efficient delivery of poison prevention and control services to the U.S. population.

A 2004 Institute of Medicine (IOM) report revealed some of the problems with the current network of poison control centers. One of the key recommendations in this report was that Congress provides sufficient funding to support the Poison Prevention and Control System with its national network of regional poison control centers.

H.R. 5669 reauthorizes a grant program that allows the HHS Secretary to make grants to certified poison centers for evaluating best practices for poison prevention, developing patient management guidelines, improving national toxics-exposure surveillance, enhancing technological capabilities of those in the field of poison control, fostering enhanced public health utilization of national poison data, expanding toxicologic expertise, and improving the capacity of poison centers.

In addition, H.R. 5669 reauthorizes a poison centers national toll-free number and provides for the maintenance of such a number, including appropriate authorizations. It also reauthorizes a nationwide media campaign to educate the public and healthcare providers about poison prevention and the availability of poison center resources, including advertising of the nationwide toll-free number.

*Legislative History*

On April 1, 2008, H.R. 5669 was introduced by Representative Towns and referred to the Committee on Energy and Commerce.

On April 2, 2008, H.R. 5669 was referred to the Subcommittee on Health.

On April 23, 2008, the Subcommittee on Health met in an open markup session and H.R. 5669 was forwarded to the full Committee by a voice vote.

On May 7, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 5669 was ordered reported by a voice vote.

On June 4, 2008, H.R. 5669 was reported to the House by the Committee on Energy and Commerce (H. Rept. 110-682). That same day, H.R. 5669 was considered under suspension of the rules and passed the House by a rollcall vote: 405-10.

On June 5, 2008, H.R. 5669 was received in the Senate, read twice and referred to the Senate Committee on Health, Education, Labor, and Pensions.

Further action was taken on S. 2932, a related measure. It was introduced in the Senate on April 29, 2008, by Senator Murray, and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On September 23, 2008, the Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the legislation.

On September 23, 2008, S. 2932 passed the Senate, amended, by unanimous consent.

On September 26, 2008, S. 2932 was considered under suspension of the rules and passed the House by a rollcall vote: 403-6.

On September 29, 2008, S. 2932 was presented to the President. It was signed by the President on October 8, 2008 (Public Law 110-377).

#### COMPREHENSIVE TUBERCULOSIS ELIMINATION ACT OF 2008

##### Public Law 110-392 (H.R. 1532)

To amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

##### *Summary*

Tuberculosis (TB), a chronic bacterial infection, continues to be a worldwide problem. Nearly 2 billion people, including 10 to 15 million in the United States, are infected and approximately 8 million new cases and 1.6 million tuberculosis deaths are reported globally each year. Tuberculosis causes more deaths than any other infectious disease caused by a single microorganism.

An emerging public health concern is the increase in the number of cases of multidrug-resistant tuberculosis, a form of the disease that is resistant to several of the standard therapeutic drugs. Recently, there has also been an increase in the number of cases of extensively drug-resistant tuberculosis, which is resistant to four or more standard drugs.

The high global burden of disease, coupled with continued problems of drug-resistant strains and a failure to develop better tools for TB control, threaten our ability to eliminate TB in the U.S. and hamper efforts to control TB globally as the decreasing trend in the

annual case rate has slowed from an annual average decline of 6.6 percent for 1993 through 2002 to an annual average decline of 3.1 percent for 2003 through 2006.

A May 2000 Institute for Medicine (IOM) report entitled ‘Ending Neglect: The Elimination of Tuberculosis in the U.S.’ stated that proper funding, the organization of prevention and control activities, and the research and development of new tools could eliminate tuberculosis as a public health problem in the U.S. As a result, research aimed at the diagnosis, treatment, and prevention of all forms of tuberculosis and the care of infected individuals continues to be of interest to Congress.

H.R. 1532 reauthorizes and amends the PHSA’s existing “Preventive Health Services Regarding Tuberculosis” program. This legislation amends the duties and comprehensive plan of the existing TB Advisory Council; creates a new Federal Tuberculosis Task Force; requires the HHS Secretary to prepare and submit a report to Congress, which evaluates and provides recommendations on changes needed to Federal and State public health authorities to address current disease containment challenges; authorizes appropriations from FY 09 to FY 13; and states that the National Institutes of Health (NIH) Director may expand, intensify, and coordinate research and development and related activities with respect to TB, including activities toward the goal of eliminating the disease.

#### *Legislative History*

On March 15, 2007, H.R. 1532 was introduced by Representative Green and referred to the Committee on Energy and Commerce. On March 16, 2007, H.R. 1532 was referred to the Subcommittee on Health.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1532 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, H.R. 1532 was reported to the House, amended (H. Rept. 110–873).

On September 23, 2008, H.R. 1532 was considered under suspension of the rules and on September 24, 2008, passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On September 25, 2008, H.R. 1532 was received in the Senate and read twice.

On September 27, 2008, H.R. 1532 passed the Senate, without amendment, by unanimous consent and was cleared for the White House.

On October 3, 2008, H.R. 1532 was presented to the President and was signed by the President on October 13, 2008 (Public Law 110–392).

#### STEPHANIE TUBBS JONES GIFT OF LIFE MEDAL ACT OF 2008

Public Law 110–413 (H.R. 7198, H.R. 6950)

To establish the Stephanie Tubbs Jones Gift of Life Medal for organ donors and the family of organ donors.

### *Summary*

H.R. 6950 makes any organ donor, or the family of any organ donor, eligible for a Stephanie Tubbs Jones Gift of Life Medal. In addition, H.R. 6950 requires the Secretary of Health and Human Services to direct the Organ Procurement and Transplantation Network (OPTN) to establish an application procedure, determine eligibility, and arrange for the presentation of medals. H.R. 6950 authorizes the OPTN to collect funds to offset expenditures relating to the issuance of medals and requires the Secretary of the Treasury to design the Stephanie Tubbs Jones Gift of Life Medals using certain specifications.

### *Legislative History*

On September 18, 2008, H.R. 6950 was introduced by Representative Stark. It was referred to the Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 23, 2008, H.R. 6950 was considered under suspension of the rules. On September 25, 2008, H.R. 6950 was considered as unfinished business and passed the House by a rollcall vote: 420–1.

On September 26, 2008, H.R. 6950 was received in the Senate.

Further action was taken on H.R. 7198, a related measure, which was introduced on September 28, 2008, by Representative Stark. It was referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 29, 2008, the Committee on Energy and Commerce and the Committee on Financial Services were each discharged from further consideration of H.R. 7198. The House then passed H.R. 7198 by unanimous consent.

On September 30, 2008, H.R. 7198 was received in the Senate.

On October 1, 2008, H.R. 7198 passed the Senate, without amendment, by unanimous consent, clearing it for the White House.

On October 6, 2008, H.R. 7198 was presented to the President who signed the measure on October 14, 2008 (Public Law 110–413).

### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

#### Public Law 110–417 (S. 3001, H.R. 5658)

#### (Health Provisions)

To authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

### *Summary*

S. 3001 provides for a consistent education loan repayment authority for health professionals in regular components and Selected Reserve. It also provides for the extension of certain bonus and special pay authorities for health care professionals. Further, S. 3001 provides accession and retention bonuses for the recruitment and retention of officers in critically short wartime health professions.

S. 3001 provides a one year prohibition of increases on certain health care costs and for transitional health care for certain members of the armed forces. The Secretary of Defense is also required to conduct a military health risk management demonstration project on the use of preventive health services. S. 3001 directs the Secretary to establish a task force on the prevention of suicide by members of the Armed Forces.

### *Legislative History*

On March 31, 2008, H.R. 5658 was introduced by Representative Skelton and referred to the Committee on Armed Services.

On April 25, 2008, H.R. 5658 was referred to the Subcommittee on Military Personnel; the Subcommittee on Readiness; the Subcommittee on Seapower and Expeditionary Forces; the Subcommittee on Air and Land Forces; the Subcommittee on Terrorism, Unconventional Threats and Capabilities; and the Subcommittee on Strategic Forces.

On May 7, 2008, the Subcommittee on Military Personnel, the Subcommittee on Air and Land Forces and the Subcommittee on Strategic Forces met in an open markup session and forwarded H.R. 5658 to the full Committee by a voice vote.

On May 8, 2008, the Subcommittee on Readiness met in an open markup session and forwarded H.R. 5658 to the full Committee, as amended, by a voice vote. The Subcommittee on Seapower and Expeditionary Forces met in an open markup session and forwarded H.R. 5658 to the full Committee, as amended, by a voice vote. The Subcommittee on Terrorism, Unconventional Threats and Capabilities met in an open markup session and forwarded H.R. 5658 to the full Committee by a voice vote.

On May 14, 2008, the Committee on Armed Services met in an open markup session and H.R. 5658 was ordered reported, as amended, by a rollcall vote: 61–0.

On May 16, 2008, the Committee on Armed Services reported H.R. 5658 to the House, amended (H. Rept. 110–652).

On May 20, 2008, a supplemental report was filed by the Committee on Armed Services (H. Rept. 110–652, Part 2).

On May 21, 2008, H.R. 5658 was considered under the provisions of rule H. Res. 1213 and Committee of the Whole House on the State of the Union rises leaving H.R. 5658 as unfinished business.

On May 22, 2008, H.R. 5658 passed the House, amended, by a rollcall vote: 384–23.

On June 3, 2008, H.R. 5658 was received in the Senate, read twice and placed on Senate Legislative Calendar under General Orders, Calendar No. 758.

Further action was taken on S. 3001, a related measure.

On September 17, 2008, S. 3001 passed the Senate, amended, by a rollcall vote: 88–8.

On September 18, 2008, S. 3001 was received in the House.

On September 24, 2008, S. 3001 passed the House, as amended, under suspension of the rules by a rollcall vote: 392—39.

On September 27, 2008, the Senate agreed to the House amendment by unanimous consent and S. 3001 was cleared for the White House.

On October 6, 2008, S. 3001 was presented to the President; and the measure was signed by the President on October 14, 2008 (Public Law 110–417).

#### METHAMPHETAMINE PRODUCTION PREVENTION ACT OF 2007

##### Public Law 110–415 (S. 1276)

To facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

##### *Summary*

The Combat Methamphetamine Act requires pharmacies to keep logbooks recording each purchase of a methamphetamine precursor drug product. Current law permits pharmacies to keep these logbooks either in written or electronic form. Numerous states are trying to promote increased usage of electronic logbook systems because when pharmacies keep their logbook information electronically, it makes it much easier to identify people who go from pharmacy to pharmacy to buy methamphetamine precursors in amounts that exceed the legal limit.

S. 1276 makes technical changes to the provisions in the federal Combat Methamphetamine Act to reduce unnecessary costs for pharmacies to use an electronic logbook system.

##### *Legislative History*

On May 3, 2007, S. 1276 was introduced by Senator Durbin and referred to the Senate Committee on the Judiciary.

On September 15, 2008, the Senate Committee on the Judiciary reported S. 1276 with an amendment in the nature of a substitute and an amendment to the title.

On September 25, 2008, S. 1276 passed the Senate, as amended, by unanimous consent.

On September 25, 2008, S. 1276 was received in the House and referred to the House Committee on Energy and Commerce, and in addition the House Committee on the Judiciary.

On September 29, 2008, the Committee on Energy and Commerce and the Committee on the Judiciary were each discharged from further consideration of S. 1276. The bill was then considered in the House by unanimous consent and agreed to without objection. This action cleared S. 1276 for the White House.

On October 3, 2008, S. 1276 was presented to the President. The President signed the legislation on October 14, 2008 (Public Law 110–415).



## RYAN HAIGHT ONLINE PHARMACY CONSUMER PROTECTION ACT OF 2008

## Public Law 110–425 (H.R. 6353)

To amend the Controlled Substances Act to address online pharmacies.

*Summary*

According to the Drug Enforcement Agency (DEA), nearly 7 million Americans are abusing prescription drugs, more than the numbers who are abusing cocaine, heroin, hallucinogens, Ecstasy, and inhalants, combined. The number of individuals abusing prescription drugs has increased 80 percent in the last 6 years. Prescription pain relievers have replaced marijuana and cocaine as new drug users' drug of choice. Nearly 1 in 10 high school seniors admits to abusing powerful prescription painkillers. A shocking 40 percent of teenagers and an almost equal number of their parents think abusing prescription painkillers is safer than abusing 'street' drugs.

Prescription pain relievers appear to be among the drugs most heavily dispensed by certain Internet pharmacies through prescriptions that are issued based on online questionnaires. This practice has been abused by rogue pharmacy sites that dispense large quantities of addictive substances to customers seeking access to prescription painkillers, leading to instances of addiction, overdose, and death. As of July 2004, DEA investigations had discovered 14 deaths or overdoses and 15 persons who have entered rehabilitation or sustained injuries from drugs obtained over the Internet.

In an effort to address concerns about the purchase of controlled substances through online pharmacies, H.R. 6353 defines a 'valid prescription' as a prescription that is issued for a legitimate purpose by a practitioner who has conducted at least one in-person medical evaluation of the patient.

H.R. 6353 imposes registration and reporting requirements on online pharmacies. H.R. 6353 requires an online pharmacy that delivers, dispenses controlled substances to: (1) display on its Internet homepage a statement that it complies with the requirements of this Act; (2) comply with State laws for the licensure of pharmacies in each State in which it operates or sells controlled substances; (3) post on its Internet homepage specified information, including the name, address, and telephone number of the pharmacy, the qualifications of its pharmacist-in-charge, and a certification of its registration under this Act; and (4) notify the Attorney General and applicable State boards of pharmacy at least 30 days prior to offering to sell, deliver, distribute, or dispense controlled substances over the Internet.

H.R. 6353 increases criminal penalties involving controlled substances in Schedules II, IV, and V of the Controlled Substances Act. H.R. 6353 also authorizes States to apply for injunctions or obtain damages and other civil remedies against online pharmacies that are deemed a threat to State residents.

*Legislative History*

On June 24, 2008, H.R. 6353 was introduced by Representative Stupak. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6353 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, the Committee on Energy and Commerce reported H.R. 6353 to the House, amended (H. Rept. 110–869). The Committee on Judiciary was discharged from further consideration of the measure. That same day, H.R. 6353 was considered under suspension of the rules and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On September 25, 2008, H.R. 6353 was received in the Senate.

On September 30, 2008, H.R. 6353 passed the Senate without amendment by unanimous consent, clearing the measure for the White House.

On October 6, 2008, H.R. 6353 was presented to the President. On October 15, 2008, the President signed the bill (Public Law 110–425).

STEPHANIE TUBBS JONES ORGAN TRANSPLANT AUTHORIZATION ACT OF  
2008

## Public Law 110–426 (H.R. 6469)

To amend the Public Health Service Act to authorize increased Federal funding for the Organ Procurement and Transplantation Network.

*Summary*

H.R. 6469 strikes the current authorization amount of \$2 million for the Organ Procurement and Transplantation Network (OPTN) and increases the authorization to \$7 million. It also requires that the Executive Director of the OPTN submit to Congress a report on the progress of the program.

*Legislative History*

On July 10, 2008, H.R. 6469 was introduced by Representative DeGette and referred to the Committee on Energy and Commerce.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6469 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, H.R. 6469 was considered by the House under suspension of the rules. On September 25, 2008, H.R. 6469 passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On September 26, 2008, H.R. 6469 was received in the Senate and read twice.

On October 2, 2008, H.R. 6469 passed the Senate, amended, by unanimous consent.

On October 3, 2008, the House agreed to the Senate amendment without objection and H.R. 6469 was cleared for the White House.

H.R. 6469 was presented to the President on October 9, 2008, and signed by the President on October 15, 2008 (Public Law 110–426).

WILLIAM WILBERFORCE TRAFFICKING VICTIMS PROTECTION  
REAUTHORIZATION ACT OF 2008

Public Law 110–457 (H.R. 7311, H.R. 3887)

(Health Provisions)

To authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

*Summary*

Title I of H.R. 3887 directs the President to carry out programs to prevent and deter trafficking in persons and authorizes funds for FY2008–FY2011 for this purpose. This deterrence includes providing anti-trafficking assistance to foreign countries for investigations of individuals and entities involved in sexual exploitation.

Title I also directs the President to establish performance goals and indicators for anti-trafficking programs; and requires the establishment of an integrated database relating to trafficking trends.

Title II directs the Secretary of Health and Human Services to provide interim assistance to children who have been trafficking victims. It also authorizes the Secretary of Health and Human Services and the Attorney General to establish an assistance program for U.S. citizens and lawful permanent residents who are victims of severe forms of trafficking; and make grants to states, Indian tribes, local government, and nonprofit victims' service organizations to develop and expand victim service programs.

Title II requires that the Attorney General and the Secretary of Health and Human Services report to the appropriate congressional committees identifying any service gap between foreign and U.S. citizen victims of severe forms of trafficking and victims of sex trafficking.

Title III authorizes appropriations through FY 2011 to a number of federal agencies, including the Secretary of Health and Human Services and the Attorney General for assistance to trafficking victims in the United States.

Title IV prohibits funds for specified military and related areas from being made available to the government of a country identified by the Secretary of State as having governmental armed forces or government supported armed groups that recruit or use child soldiers.

*Legislative History*

On October 18, 2007, H.R. 3887 was introduced by Representative Lantos. It was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On October 22, 2007, H.R. 3887 was referred to the Subcommittee on Health.

On November 6, 2007, the Committee on Foreign Affairs reported H.R. 3887 to the House, amended (H. Rept. 110-430, Part 1). The Committee on Energy and Commerce was discharged from further consideration of H.R. 3887; and the Committee on the Judiciary was granted an extension for further consideration ending not later than November 9, 2007.

On November 9, 2007, the Committee on the Judiciary was granted an extension for further consideration ending not later than November 20, 2007.

On November 20, 2007, the Committee on the Judiciary was discharged from further consideration of H.R. 3887.

On December 4, 2007, H.R. 3887 was considered under suspension of the rules and passed the House, as amended, by a rollcall vote: 405-2.

On December 5, 2007, H.R. 3887 was received in the Senate, read twice and referred to the Senate Committee on the Judiciary.

Further action was taken on H.R. 7311, a related measure, which was introduced on December 9, 2008, by Representative Howard Berman. The bill was referred to the Committee on Foreign Affairs, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On December 10, 2008, the Committees on Foreign Affairs, Energy and Commerce, and the Judiciary were each discharged from further consideration of the measure by unanimous consent; and the bill passed the House with no objection the same day.

On December 10, 2008, H.R. 7311 was received in the Senate, considered, and passed without amendment by unanimous consent, clearing it for White House action.

On December 23, 2008, H.R. 7311 was signed by the President (Public Law 110-457).

#### STEM CELL RESEARCH ENHANCEMENT ACT OF 2007

(H.R. 3, S. 5)

To amend the Public Health Service Act to provide for human embryonic stem cell research.

#### *Summary*

Stem cell research has the potential to affect the lives of millions of people in the United States and around the world. Stem cells provide the opportunity to study the growth and differentiation of individual cells into tissues. Understanding these processes could provide insights into the causes of birth defects, genetic abnormalities, and other disease states. Stem cells could be used to produce large amounts of one cell type to test new drugs for effectiveness and chemicals for toxicity. Stem cells might be transplanted into the body to treat disease or injury. The damaging side effects of medical treatments might be repaired with stem cell treatment.

S. 5 amends the Public Health Service Act to require the Secretary of Health and Human Services to conduct and support re-

search that utilizes human embryonic stem cells, regardless of the date on which the stem cells were derived from a human embryo, provided such embryos meet ethical requirements: the stem cells were derived from human embryos donated from in vitro fertilization clinics for the purpose of fertility treatment and were in excess of the needs of the individuals seeking such treatment; the embryos would never be implanted in a woman and would otherwise be discarded; and such individuals donate the embryos with written informed consent and receive no financial or other inducements. In addition, the bill requires the Secretary to issue final guidelines to carry out this Act within 60 days and submit annual reports on activities and research conducted under this Act.

#### *Legislative History*

On January 5, 2007, H.R. 3 was introduced by Representative DeGette and referred to the Committee on Energy and Commerce.

On January 11, 2007, H.R. 3 was considered in the House pursuant to H. Res. 6. Mr. Burgess moved to recommit with instructions to Energy and Commerce. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment inserting provisions preventing federal support for human cloning. The motion to recommit failed by a rollcall vote: 189–238. H.R. 3 then passed the House by a rollcall vote: 253–174.

On January 12, 2007, H.R. 3 was placed on the Senate Legislative Calendar under General Orders.

Further action was taken on S. 5, a related measure, which was introduced on January 4, 2007, by Senator Reid.

On April 11, 2007, S. 5 was considered in the Senate and passed by a rollcall vote: 63–34.

On April 16, 2007, S. 5 was received in the House and held at the desk.

On June 7, 2007, S. 5 was considered in the House according to the provisions of H. Res. 464. S. 5 then passed the House by a rollcall vote: 247–163.

On June 12, 2007, S. 5 was presented to the President and on June 20, 2007, the President vetoed the bill.

No further action was taken on this bill in the 110th Congress.

#### MELANIE BLOCKER-STOKES POSTPARTUM DEPRESSION RESEARCH AND CARE ACT

(H.R. 20)

To provide for research on, and services for individuals with, postpartum depression and psychosis.

#### *Summary*

Postpartum depression is recognized as a unique and serious complication of childbirth. Its insidious onset and chronic course complicates 10 to 15 percent of all deliveries and a staggering 26 to 32 percent of all adolescent deliveries. The majority of patients suffer from this illness for more than 6 months and, if untreated, 25 percent of patients are still depressed a year later. Women with postpartum depression may feel restless, anxious, sad, or depressed. They may have feelings of guilt, decreased energy and mo-

tivation, and a sense of worthlessness. They may also have sleep difficulties and undergo unexplained weight loss or gain.

H.R. 20 encourages the Secretary of Health and Human Services (HHS), the Director of the National Institute of Mental Health (NIMH), and the Director of the National Institutes of Health (NIH) to coordinate activities and continue aggressive work with respect to postpartum depression and postpartum psychosis. In addition, the Director of NIMH is encouraged to continue supporting research on understanding the causes of postpartum depressions and finding a cure through activities such as basic research concerning the etiology and causes of the conditions; epidemiological studies to address the frequency and natural history of the conditions and the differences among racial and ethnic groups with respect to the conditions; development of improved screening and diagnostic techniques; clinical research for the development and evaluation of new treatments; and, information and education programs for healthcare professionals and the public.

H.R. 20 also directs the Secretary of HHS to make grants to provide for projects for the establishment, operation, and coordination of effective and cost-efficient systems for the delivery of essential services to individuals with postpartum depression or postpartum psychosis. Recipients of these grants must be either a public or nonprofit private entity.

#### *Legislative History*

On January 4, 2007, H.R. 20 was introduced by Representative Rush and referred to the Committee on Energy and Commerce. On February 2, 2007, H.R. 20 was referred to the Subcommittee on Health.

On May 1, 2007, the Subcommittee on Health held a hearing on H.R. 20. The purpose of the hearing was to explore the need for more research on postpartum depression and psychosis.

On July 19, 2007, the Subcommittee on Health met in an open markup session and H.R. 20 was forwarded to the full Committee, amended, by a voice vote.

On September 27, 2007, the Committee held an open markup session and H.R. 20 was ordered reported, as amended, by a voice vote.

On October 15, 2007, H.R. 20 was reported to the House, as amended (H. Rept. 110–375).

On October 15, 2007, H.R. 20 passed the House, as amended, under suspension of the rules by a rollcall vote: 382–3.

On October 16, 2007, H.R. 20 was received in the Senate, read twice and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 20 in the 110th Congress.

#### STROKE TREATMENT AND ONGOING PREVENTION ACT

(H.R. 477)

To amend the Public Health Service Act to strengthen education, prevention, and treatment programs relating to stroke, and for other purposes.

### *Summary*

Stroke is the third leading cause of death in America and a major contributor to long-term disability. The American Heart Association estimates that Americans will pay approximately \$62.7 billion in 2007 for stroke-related medical costs and disability.

H.R. 477 authorizes the Secretary of the Department of Health and Human Services to engage in activities designed to increase knowledge and awareness of stroke prevention and treatment. This legislation would require the Secretary to conduct educational campaigns, maintain a national stroke registry, and establish an information clearinghouse related to stroke. For these purposes, the bill would authorize the appropriation of \$5 million for each of the fiscal years 2008 through 2012.

H.R. 477 would authorize the Secretary to make grants to public and nonprofit entities for the purpose of planning, developing, and enhancing approved residency training programs and other professional training for appropriate health professions in emergency medicine, including emergency medical services professionals, to improve stroke and traumatic injury prevention, diagnosis, treatment, and rehabilitation. For these purposes, the bill would authorize the appropriation of \$4 million for each of the fiscal years 2008 through 2012.

In addition, H.R. 477 would authorize the Secretary to make grants to States and other public and private entities to develop medical professional training programs and telehealth networks that seek to coordinate stroke care and improve patient outcomes. For these purposes, the bill would authorize the appropriation of \$10 million for fiscal year 2008, \$13 million for fiscal year 2009, \$15 million for fiscal year 2010, \$8 million for fiscal year 2011, and \$4 million for fiscal year 2012.

### *Legislative History*

On January 16, 2007, H.R. 477 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. H.R. 477 was referred to the Subcommittee on Health on February 2, 2007.

On March 13, 2007, the Subcommittee on Health met in an open markup session and H.R. 477 was forwarded to the full Committee by a voice vote.

On March 15, 2007, the full Committee met in an open markup session and H.R. 477 was ordered favorably reported, amended, by a voice vote.

On March 27, 2007, the Committee on Energy and Commerce reported H.R. 477 to the House, amended (H. Rept. 110–75).

On March 27, 2007, H.R. 477 was considered in the House under suspension of the rules and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On March 28, 2007, H.R. 477 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 477 in the 110th Congress.

## VISION CARE FOR KIDS ACT OF 2007

(H.R. 507)

To establish a grant program to provide vision care to children, and for other purposes.

*Summary*

Vision problems can occur at any point during a lifetime, but tend to be particularly damaging to school age children because developmental struggles may result in physical, emotional, and social consequences. In addition to the psychological costs, the economic costs for people with impaired vision are very high. It is estimated that the lifetime costs for all people with vision impairment who were born in 2000 will total \$2.5 billion. For these reasons, Healthy Vision 2010 recommends that all children receive a vision-screening exam from their healthcare provider before they reach the age of five.

H.R. 507 allows the Secretary of Health and Human Services, acting through the Director of CDC, to award matching grants to States to: provide comprehensive eye examinations by a licensed optometrist or ophthalmologist for children identified by a licensed health care provider or vision screener, with priority given to children under age nine; provide treatment or services to correct vision problems of such children; and develop and disseminate educational materials to parents, teachers, and health care practitioners regarding how to recognize signs of visual impairment in children.

*Legislative History*

On January 17, 2007, H.R. 507 was introduced by Representative Green and referred to the Committee on Energy and Commerce. On February 2, 2007, H.R. 507 was referred to the Subcommittee on Health.

On July 19, 2007, the Subcommittee on Health met in an open markup session and H.R. 507 was forwarded to the full Committee, amended, by a voice vote.

On September 27, 2007, the full Committee held an open markup session and H.R. 507 was ordered favorably reported to the House, as amended, by a voice vote.

On October 15, 2007, H.R. 507 was reported to the House, amended (H. Rept. 110–376).

On October 15, 2007, H.R. 507 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On October 16, 2007, H.R. 507 was received in the Senate, read twice and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 507 in the 110th Congress.



NATIVE AMERICAN METHAMPHETAMINE ENFORCEMENT AND  
TREATMENT ACT OF 2007

(H.R. 545)

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that territories and Indian tribes are eligible to receive grants for confronting the use of methamphetamine.

*Summary*

Methamphetamine abuse is a significant burden on rural communities and tribal communities. The Indian Health Service (IHS) reports that over 30 percent of Alaska Native and American Indian youth have experimented with methamphetamine and that 1.9 percent of Alaska Natives and American Indians over the age of 12 are currently using it. According to the Centers for Disease Control and Prevention (CDC), the rate of use among Alaska natives and American Indians is almost three times higher than the national rate for whites and four times higher than the rate for Hispanics and Latinos.

Over the past 30 years, Congress has passed legislation designed to address the problem of illicit methamphetamine abuse and its production, culminating in the passage of the Combat Methamphetamine Epidemic Act of 2005, enacted as Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005.

H.R. 545 would make U.S. territories and Indian tribes eligible to apply for Department of Justice grants to combat the abuse of methamphetamine authorized under the Combat Methamphetamine Epidemic Act of 2005, namely the Hot Spots program and the Drug-Endangered Children Grant program. Under current law, only States may apply for these grants.

*Legislative History*

On January 17, 2007, H.R. 545 was introduced by Representative Udall. It was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On February 2, 2007, H.R. 545 was referred to the Subcommittee on Health.

On March 8, 2007, the Committee on Judiciary reported H.R. 545 to the House (H. Rept. 110–35, Part 1); and the Committee on Energy and Commerce was granted an extension for further consideration ending not later than April 20, 2007.

On March 13, 2007, the Subcommittee on Health met in an open markup session and H.R. 545 was forwarded to the full Committee, amended, by a voice vote.

On March 15, 2007, the full Committee held an open markup session and H.R. 545 was ordered favorably reported, as amended, by a voice vote.

On March 21, 2007, the Committee on Energy and Commerce reported H.R. 545 to the House, amended, (H. Rept. 110–35, Part 2).

On March 22, 2007, H.R. 545 passed the House, as amended, under suspension of the rules by a rollcall vote: 423–0.

On March 23, 2007, H.R. 545 was received by the Senate, read the first time and placed on the Senate Legislative Calendar under Read the First Time.

On March 26, 2007, H.R. 545 was read the second time and placed on the Senate Legislative Calendar under General Orders, Calendar No. 85.

No further action was taken on H.R. 545 in the 110th Congress.

#### DEXTROMETHORPHAN DISTRIBUTION ACT OF 2007

#### (H.R. 970)

To amend the Federal Food, Drug, and Cosmetic Act with respect to the distribution of the drug dextromethorphan, and for other purposes.

#### *Summary*

Dextromethorphan (DXM) is abused by individuals of all ages, but its abuse by teenagers and young adults is of particular concern. Abuse of combination DXM products causes health complications such as increased blood pressure, delayed liver damage, and central nervous system and cardiovascular toxicity. The use of high doses of DXM in combination with alcohol or other drugs is particularly dangerous and deaths have been reported.

H.R. 970 amends the Federal Food, Drug, and Cosmetic Act to deem to be adulterated any unfinished dextromethorphan that is possessed, received, or distributed in violation of this Act. It would also prohibit a person from: possessing or receiving unfinished dextromethorphan unless the person is registered with the Secretary of Health and Human Services as a producer of a drug or device, or distributing unfinished dextromethorphan to any person other than a registered person.

#### *Legislative History*

On February 8, 2007, H.R. 970 was introduced by Representative Upton and referred to the Committee on Energy and Commerce. On February 9, 2007, H.R. 970 was referred to the Subcommittee on Health.

On September 27, 2007, the Subcommittee on Health was discharged from further consideration of H.R. 970.

On September 27, 2007, the Committee held an open markup session and H.R. 970 was ordered favorably reported, amended, by a voice vote.

On October 15, 2007, H.R. 970 was reported to the House, amended (H. Rept. 110-377).

On October 15, 2007, H.R. 970 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On October 16, 2007, H.R. 970 was received in the Senate, read twice and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 970 in the 110th Congress.

HEART DISEASE EDUCATION, ANALYSIS RESEARCH, AND TREATMENT  
FOR WOMEN ACT

(H.R. 1014)

To amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

*Summary*

Heart disease and other forms of cardiovascular disease are the leading cause of death in the United States and a major cause of disability. Although heart disease is sometimes thought of as a ‘man’s disease,’ one in three American women die of heart disease and other cardiovascular diseases, making it the leading cause of death for both women and men in the United States. Recent studies attribute these statistics in part to disparities in preventive care and treatment for cardiovascular disease between women and men. In particular, there is a pervasive lack of awareness among women about cardiovascular health and the risks of heart disease.

The Centers for Disease Control and Prevention (CDC) administers the Well-Integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN) program. WISEWOMAN began as a demonstration program authorized in 1993 by Congress. The program is available to low-income women aged 40 to 64 who are enrolled in the National Breast and Cervical Cancer Early Detection Program. WISEWOMAN successfully screens low-income and uninsured women for heart disease, stroke, and other forms of cardiovascular disease through blood pressure and blood cholesterol testing. Up to this point, however, the available funding has limited the program to 21 projects in only 20 States.

H.R. 1014 amends the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women by instituting new clinical reporting requirements and authorizing research and public health activities. Specifically, it authorizes the Department of Health and Human Services (HHS) to educate health care professionals and older women about unique aspects of care in the prevention, diagnosis, and treatment of women with heart disease and stroke. It also authorizes the expansion of the WISEWOMAN program.

Further, H.R. 1014 authorizes the Secretary of HHS to deny an application for approval or place a clinical hold on an investigation, as appropriate, of a new drug, investigational new drug, biologic, device, or investigational device if the application fails to meet current reporting requirements concerning the stratification of data by gender, age, and race.

*Legislative History*

On February 13, 2007, H.R. 1014 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. On February 14, 2007, H.R. 1014 was referred to the Subcommittee on Health.

On May 1, 2007, the Subcommittee on Health held a hearing on H.R. 1014. The purpose of the hearing was to explore the need for greater awareness and funding for combating heart disease in women.

On September 17, 2008, the Committee on Energy and Commerce held an open markup session and H.R. 1014 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, the House considered H.R. 1014 under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On September 25, 2008, the House considered H.R. 1014 as unfinished business. The House passed the bill, as amended, by a roll-call vote: 414–4.

On September 26, 2008, H.R. 1014 was received in the Senate. No further action was taken on H.R. 1014 in the 110th Congress.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

(H.R. 1108)

To protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

#### *Summary*

The prevalence of tobacco use and its toll on human lives has long been a public health concern. The Centers for Disease Control and Prevention (CDC) estimates that 21 percent of U.S. adults (approximately 45.1 million people) are cigarette smokers. Current trends suggest that the annual rate of cessation among smokers remains fairly low, that the decline in the initiation rate may have slowed, and that overall adult prevalence may be flattening out at around 20 percent.

In addition to the prevalence of tobacco use in the adult population, CDC estimates that 23 percent of U.S. high school students are cigarette smokers. Almost 80 percent of new users of tobacco products began when they were under the minimum legal age to purchase them. The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children. Every day, approximately 4,000 youth try a cigarette for the first time, and another 1,000 will become new, regular daily smokers. One-third of these youth will eventually die prematurely as a result. Tobacco advertising and marketing contribute significantly to the use of tobacco products by children and adolescents, who are more influenced by tobacco marketing than adults, and are exposed to substantial and unavoidable advertising that leads to favorable attitudes about tobacco use.

Cigarette smoking is the leading preventable cause of death in the United States. It is responsible for about 1 in 5 deaths annually, or about 438,000 deaths per year according to CDC. According to the Institute of Medicine, smoking-related deaths account for more deaths than AIDS, alcohol, cocaine, heroin, homicide, suicide, motor vehicle crashes, and fires combined. Smoking harms nearly every organ of the body, causing many diseases and reducing the

health of smokers in general. Cancer, the second leading cause of death, was among the first diseases causally linked to smoking. Approximately 8.6 million Americans suffer from chronic illnesses related to smoking. Smoking also increases the prevalence of cardiovascular and respiratory disease. Smokeless tobacco use has also negatively affected the health of many Americans. According to the National Cancer Institute, smokeless tobacco contains 28 carcinogens and consumers of smokeless tobacco products increase their risk for certain cancers, including oral cancer.

In addition to the lives lost to tobacco, the financial losses amount to billions of dollars. CDC estimates that cigarette smoking costs more than \$167.5 billion annually, based on lost productivity (\$92 billion) and healthcare expenditures (\$75.5 billion).

The current lack of Government regulation has allowed the tobacco industry to design new products or modify existing ones in ways that increase their appeal to children and that contribute to the risk and incidence of disease. Flavors and product modification not only make the products more appealing to youth, but often result in exposure to additional carcinogens and other toxic constituents. The manipulation of nicotine and other chemical levels increases addictiveness and harm.

H.R. 1108 amends the Federal Food, Drug, and Cosmetic Act (FFDCA) to grant the Food and Drug Administration (FDA) the authority to regulate tobacco products. It allows the Secretary to restrict the sale and distribution of tobacco products, including advertising and promotion, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The legislation also allows the Secretary to take specified actions, including public notification and recall, against unreasonably harmful products.

H.R. 1108 requires the Secretary to establish tobacco product standards to protect the public health, but prohibits the Secretary from banning a class of tobacco products, such as all cigarettes, or reducing the nicotine level to zero. The legislation sets forth standards for the sale of modified-risk tobacco products and prohibits cigarettes from containing, as a characterizing flavor, any artificial or natural flavor (other than tobacco or menthol).

Further, H.R. 1108 sets forth provisions regarding: (1) judicial review, (2) coordination with the Federal Trade Commission, (3) Congressional review of regulations, and (4) State and local authority. The legislation also requires the Secretary to establish a Tobacco Products Scientific Advisory Committee.

Finally, H.R. 1108 amends the Federal Cigarette Labeling and Advertising Act to change cigarette warning label and advertising requirements. In addition, the legislation amends the Comprehensive Smokeless Tobacco Health Education Act of 1986 to change smokeless tobacco warning label and advertising requirements.

### *Legislative History*

On February 15, 2007, H.R. 1108 was introduced by Representative Waxman and referred to the Committee on Energy and Commerce. On February 16, 2007, H.R. 1108 was referred to the Subcommittee on Health.

On October 3, 2007, the Subcommittee on Health held a hearing on H.R. 1108. The purpose of the hearing was to explore ways to regulate tobacco to reduce its harm to health.

On March 6, 2008, the Subcommittee on Health met in an open markup session and began consideration of H.R. 1108. On March 11, 2008, the Subcommittee met in an open markup session and forwarded H.R. 1108 to the full Committee, amended, by a rollcall vote: 18–9.

On April 2, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1108 was ordered favorably reported, amended, by a rollcall vote: 38–12.

On July 17, 2008, H.R. 1108 was reported to the House, amended, by the Committee on Energy and Commerce (H. Rept. 110–762).

On July 30, 2008, H.R. 1108 passed the House, as amended, under suspension of the rules by a rollcall vote: 326–102.

On July 31, 2008, H.R. 1108 was received in the Senate, and, on August 1, 2008, the bill was referred to the Senate Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1108 in the 110th Congress.

#### EARLY HEARING DETECTION AND INTERVENTION ACT OF 2008

#### H.R. 1198

To amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

#### *Summary*

Each year in the United States, more than 12,000 babies are born with hearing loss. Studies have shown that children who have hearing loss can have delays in speech, language, and cognitive development. H.R. 1198 reauthorizes the Early Hearing Detection and Intervention (EHDI) program within the U.S. Department of Health and Human Services (HHS). The original legislation directed Federal agencies to work with States to develop newborn infant hearing screening and early intervention programs.

When the EHDI program was first implemented, 44 percent of newborns were screened for hearing loss. Today, more than 93 percent of all newborns are screened, and each year there are thousands of infants with hearing loss who benefit from early identification. Despite the success of the EHDI program, much work remains to be done. Many infants do not receive timely follow-up and referrals due to shortages in properly trained healthcare providers, limited access to early intervention programs, and poor EHDI program integration with existing public healthcare systems.

H.R. 1198 amends the Public Health Service Act (PHSA) to require that the HHS Secretary, acting through the Administrator of the Health Resources and Services Administration (HRSA) assist in the recruitment, retention, education, and training of qualified personnel and healthcare providers; award grants/cooperative agreements to ensure prompt evaluation and diagnosis of children referred from screening programs and provide the appropriate educational, audiological, and medical interventions for children identified with hearing loss; assist in establishing and fostering family-

to-family support mechanisms; assist in the development of efficient models to ensure that children who are identified with hearing loss through screening are not lost to follow-up by a qualified healthcare provider; and assist in ensuring an adequate supply of qualified personnel to meet the screening, evaluation, and early needs of children.

In addition, H.R. 1198 requires the Director of the National Institutes of Health (NIH) to establish a postdoctoral fellowship program to foster research and development in the area of early hearing detection and intervention.

H.R. 1198 also amends the definition of “early intervention” to require that families be given the opportunity to obtain the full range of early intervention services, educational and program placements, and other options for their child from highly qualified providers.

#### *Legislative History*

On February 27, 2007, H.R. 1198 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. On February 28, 2007, H.R. 1198 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded the bill, amended, to the full Committee, by a voice vote.

On March 13, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1198 was ordered favorably reported, as amended, by a voice vote.

On April 8, 2008, the Committee on Energy and Commerce reported H.R. 1198 to the House, amended (H. Rept. 110–565).

On April 8, 2008, H.R. 1198 passed the House, amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On April 9, 2008, H.R. 1198 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1198 in the 110th Congress.

#### CYTOLOGY PROFICIENCY IMPROVEMENT ACT OF 2008

#### H.R. 1237

To amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

#### *Summary*

In 2005, the Federal Government launched a program to begin proficiency testing of pathologists and other laboratory professionals who perform Pap tests. The program was designed, however, using regulations written in 1992 to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA). In the 13 years between the regulation and the program’s start, significant advancements in the science and practice of Pap tests have been made.

H.R. 1237 recognizes the deficiencies in the current program and would modernize the program's approach so that diagnostic skills can be adequately assessed and improved through mandated educational testing that reflects complex and state-of-the-art practice.

H.R. 1237 amends the Public Health Service Act to require the Secretary of Health and Human Services (HHS) to revise national quality assurance standards to assure consistent performance by laboratories of valid and reliable cytology services. These include requirements that each clinical laboratory ensure that all individuals involved in screening and interpreting cytological preparations participate annually in an approved continuing medical education (CME) program in gynecologic cytology that provides each participant with gynecologic cytological preparations designed to improve locator, recognition, and interpretive skills; and maintain a record of program results.

H.R. 1237 requires that the CME program be approved by the Accrediting Council for Continuing Medical Education or the American Academy of Continuing Medical Education. It also requires the Secretary to terminate individual proficiency testing that was in effect before enactment of this Act. In addition, H.R. 1237 requires that the laboratory director utilize CME testing results, along with other CLIA standards, to evaluate the skills of a pathologist or cytotech in interpreting Pap tests and, if necessary, take corrective action to address performance issues. H.R. 1237 requires that laboratory directors share CME results with the laboratory's accrediting organization so that these results are used in monitoring Pap test quality and taken into account during the biannual inspection and accreditation of laboratories required under CLIA.

#### *Legislative History*

On February 28, 2007, H.R. 1237 was introduced by Representative Gordon and referred to the Committee on Energy and Commerce. On March 1, 2007, H.R. 1237 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 1237 to the full Committee, amended, by a voice vote.

On March 13, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 1237 was ordered favorably reported, as amended, by a voice vote.

On April 8, 2008, H.R. 1237 was reported to the House, amended (H. Rept. 110-566). That same day, H.R. 1237 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On April 9, 2008, H.R. 1237 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1237 in the 110th Congress.

#### ARTHRITIS PREVENTION, CONTROL, AND CURE ACT OF 2008

#### H.R. 1283

To amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.



### *Summary*

Forty-six million Americans report that a doctor told them they have arthritis or other rheumatic conditions. Arthritis is the most common cause of disability in the United States, limiting the activities of nearly 19 million adults. Arthritis is not merely limited to adults, though. A new CDC study estimates that 294,000 U.S. children under age 18 (or 1 in 250 children) have been diagnosed with arthritis or another rheumatologic condition.

H.R. 1283 amends the Public Health Service Act to allow the HHS Secretary to develop and implement a National Arthritis Action Plan. As part of the plan, the HHS Secretary may conduct, support, and promote the coordination of arthritis and other rheumatic diseases research acting through the CDC Director. The bill allows the Secretary to award grants to support research related to the prevention and management of arthritis. H.R. 1283 allows the HHS Secretary to coordinate a national education and outreach program on arthritis and other rheumatic diseases. The legislation states that the Secretary may award grants to States to provide support for comprehensive arthritis control and prevention programs.

H.R. 1283 states the Secretary, in coordination with the Director of the National Institutes of Health, may expand and intensify programs of the National Institutes of Health with respect to research and related activities concerning various forms of juvenile arthritis and related conditions. This legislation allows the Secretary, acting through the CDC Director, to award grants to support juvenile arthritis data collection and to support the development of a national juvenile arthritis population-based database.

In addition, H.R. 1283 requires the Secretary to promote and support pediatric rheumatology training, including by requiring the Secretary to establish a loan repayment program; increasing the number and size of institutional training grants awarded to institutions to support pediatric rheumatology training; an expansion of public-private partnerships to encourage academic institutions, private sector entities, and health agencies to promote educational training and fellowship opportunities for pediatric rheumatologists; and requiring the Secretary to submit an annual report on the loan repayment program.

### *Legislative History*

On March 1, 2007, H.R. 1283 was introduced by Representative Eshoo and referred to the Committee on Energy and Commerce. On March 5, 2007, H.R. 1283 was referred to the Subcommittee on Health.

On September 27, 2008, the Committee on Energy and Commerce was discharged from further consideration of H.R. 1283.

On September 27, 2008, H.R. 1283 passed the House by unanimous consent, and was received in the Senate the same day.

No further action was taken on H.R. 1283 in the 110th Congress.

## INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007

(H.R. 1328, S. 1200)

To amend the Indian Health Care Improvement Act to revise and extend that Act.

*Summary*

The United States has a longstanding trust responsibility to provide healthcare services to American Indians and Alaskan Natives and bears a duty to American Indians and Alaskan Natives due to its unique relationship founded on history, sovereignty, and culture. The Indian Health Care Improvement Act (IHCIA) (PL 94-437), is considered to be the cornerstone legal authority for the provision of health care to American Indians and Alaskan Natives. IHCIA declared that elevating the health status of the Indian population to a level at parity with the general U.S. population was this Nation's policy and public health interest.

IHCIA expired on September 30, 2000, and was extended through 2001 in anticipation that Congress would consider the reauthorization proposals pending in Congress. Authorization for IHCIA programs ended in fiscal year (FY) 2001.

Since 2001, Congress has held hearings on the reauthorization proposals, but legislative proposals to reauthorize the Act have failed. As a result, IHCIA authorized programs have remained substantially the same since their creation in 1976. As a result of the failure to reauthorize IHCIA, the quality of health care for American Indians has stagnated and health disparities persist.

This legislation would amend the IHCIA to: (1) raise the health status of Indians by 2010 to at least the levels set forth in the goals of Health People 2010 or successor objectives; and (2) allow Indians, to the greatest extent possible, to set their own healthcare priorities and establish goals that reflect their unmet needs. In addition, H.R. 1328 would amend the Social Security Act (SSA) title XVIII (Medicare), SSA title XIX (Medicaid), and SSA XXI (State Children's Health Insurance Program [SCHIP]) to conform to this Act and would facilitate enrollment of American Indians and Alaskan Natives in these programs, and payment of American Indian and Alaskan Natives providers by these programs.

*Legislative History*

On March 6, 2007, H.R. 1328 was introduced by Representative Pallone. It was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, and Ways and Means.

On June 7, 2007, H.R. 1328 was referred to the Subcommittee on Health. That same day, the Subcommittee held a hearing on the measure for the purpose of determining additional resources necessary for the Indian tribes.

On November 7, 2007, the Subcommittee on Health met in an open markup session forwarded H.R. 1328 to the full Committee, amended, by a voice vote.

On April 4, 2008, the Committee on Natural Resources reported H.R. 1328 to the House, amended (H. Rept. 110-564, Part 1). The Committee on Energy and Commerce and the Committee on Ways

and Means were each granted extensions to consider the legislation ending no later than June 6, 2008.

On June 6, 2008, the Committee on Energy and Commerce and the Committee on Ways and Means were each discharged from further consideration of H.R. 1328. H.R. 1328 was then placed on the Union Calendar.

No further action was taken on H.R. 1328 in the 110th Congress.

S. 1200, a related measure, was introduced on April 24, 2007, by Senator Dorgan and referred to the Senate Committee on Indian Affairs.

On October 16, 2007, S. 1200 was reported to the Senate (S. Rept. 110–197) and placed on the Senate Legislative Calendar.

On February 26, 2008, S. 1200 passed the Senate, amended, by a rollcall vote: 83–10.

On February 28, 2008, S. 1200 was received in the House and referred to the Committee on Natural Resources and in addition, the Committee on Energy and Commerce and the Committee on Ways and Means.

No further action was taken on S. 1200 in the 110th Congress.

#### STOP TUBERCULOSIS (TB) NOW ACT OF 2007

#### H.R. 1567

To amend the Foreign Assistance Act of 1961 to provide increased assistance for the prevention, treatment, and control of tuberculosis, and for other purposes.

#### *Summary*

H.R. 1567 amends the Foreign Assistance Act of 1961 to require the President to furnish assistance for tuberculosis (TB) prevention, treatment, and elimination. In addition, H.R. 1567 gives priority to activities described in the Stop TB Strategy (as defined by this Act) and authorizes the President, acting through the Administrator of the United States Agency for International Development (USAID), to provide increased resources to the World Health Organization (WHO) and the Stop Tuberculosis Partnership to improve the capacity of countries with high TB rates and other affected countries to implement the Stop TB Strategy and specific strategies related to addressing drug resistant tuberculosis. H.R. 1567 authorizes FY2008–FY2009 appropriations for the President to carry activities to combat tuberculosis and set-asides from such amounts for global tuberculosis activities by the Centers for Disease Control and Prevention (CDC).

#### *Legislative History*

On March 19, 2007, H.R. 1567 was introduced by Representative Engel. It was referred to the Committee on Foreign Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On March 20, 2007, H.R. 1567 was referred to the Subcommittee on Health.

On October 15, 2007, H.R. 1567 was reported to the House, amended, by the Committee on Foreign Affairs (H. Rept. 110–381, Part 1). The Committee on Energy and Commerce was discharged from further consideration of the measure.

On November 5, 2007, H.R. 1567 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On November 6, 2007, H.R. 1567 was received in the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders, Calendar No. 472.

No further action was taken on H.R. 1567 in the 110th Congress.

#### TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2007

#### H.R. 1678

To amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture, and for other purposes.

#### *Summary*

H.R. 1678 amends the Torture Victims Relief Act of 1998 to authorize appropriations for FY2008–FY2009 to the Department of Health and Human Services (HHS) to provide grants to programs in the United States to cover the costs of services provided by domestic treatment centers in the rehabilitation of victims of torture, social and legal services, and research and training of health care providers outside of treatment centers. The appropriations also cover grants to treatment centers and programs in foreign countries that carry out projects and activities specifically designed to treat victims of torture, and the United Nations Voluntary Fund for Victims of Torture.

#### *Legislative History*

On March 26, 2007, H.R. 1678 was introduced by Representative Smith. It was referred to the Committee on Foreign Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On March, 27, 2007, H.R. 1678 was referred to the Subcommittee on Health.

On April 20, 2007, H.R. 1678 was reported to the House by the Committee on Foreign Affairs (H. Rept. 110–103). The Committee on Energy and Commerce was discharged from further consideration of the measure.

On April 25, 2007, H.R. 1678 passed the House under suspension of the rules by a rollcall vote: 418–7.

On April 26, 2007, H.R. 1678 was received in the Senate, read twice and referred to the Senate Committee on Foreign Relations.

On October 9, 2007, H.R. 1678 was reported to the Senate without amendment (S. Rept. 110–194). H.R. 1678 was placed on Senate Legislative Calendar under General Orders, Calendar No. 416.

No further action was taken on H.R. 1678 in the 110th Congress.

## CHRISTOPHER AND DANA REEVE PARALYSIS ACT

(H.R. 1727)

To enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

*Summary*

It is estimated that a quarter of a million Americans are currently living with spinal cord injuries and approximately 4 to 5 million Americans are living with paralysis of the extremities. There are an estimated 10,000 to 12,000 spinal cord injuries every year in the United States.

H.R. 1727 states that the Director of the National Institutes of Health (NIH) may develop mechanisms to coordinate the paralysis research and rehabilitation activities of the Institutes and Centers of NIH in order to further advance such activities and avoid duplication of activities. H.R. 1727 permits the Director of NIH to make awards of grants to public or private entities to pay all or part of the cost of planning, establishing, improving, and providing basic operating support for consortia in paralysis research and requires that the Director shall designate each consortium, funded through such grants, as a Christopher and Dana Reeve Paralysis Research Consortium. This legislation permits the Secretary of Health and Human Services (HHS) to study the health challenges associated with paralysis and other physical disabilities and carry out projects and interventions to improve the quality of life and long-term health status of individuals with such conditions. H.R. 1727 permits the Secretary to award grants for activities related to paralysis, including to: (1) establish paralysis registries, and (2) disseminate information to the public.

*Legislative History*

On March 28, 2007, H.R. 1727 was introduced by Representative Baldwin and referred to the Committee on Energy and Commerce. On March 29, 2007, H.R. 1727 was referred to the Subcommittee on Health.

On September 27, 2007, the Subcommittee on Health was discharged from further consideration of H.R. 1727.

On September 27, 2007, the Committee met in an open markup session and H.R. 1727 was ordered favorably reported, amended, by a voice vote.

On October 15, 2007, H.R. 1727 was reported to the House, amended (H. Rept. 110–378).

On October 15, 2007, H.R. 1727 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On October 16, 2007, H.R. 1727 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1727 in the 110th Congress.

## FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT ACT OF 2008

## H.R. 2063

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools.

*Summary*

Each year, millions of Americans have allergic reactions to food. Although most food allergies cause relatively mild and minor symptoms, some food allergies can cause severe, even life-threatening, reactions. Following ingestion of food allergens, a person with food allergies may experience a severe, life-threatening allergic reaction called anaphylaxis. This can lead to a number of symptoms, including tingling sensation in the mouth; swelling of the tongue and throat; difficulty breathing; hives; vomiting; abdominal cramps; diarrhea; drop in blood pressure; loss of consciousness; and death.

There is no cure for food allergies. Strict avoidance of food allergens—and early recognition and management of allergic reactions to food—are important measures to prevent serious health consequences since food allergies can be life threatening. The risk of an allergic student's accidental exposure to foods can be reduced in the school setting if schools work with students, parents, and physicians to minimize risks and provide a safe educational environment for food-allergic students.

H.R. 2063 directs the Secretary of HHS, in consultation with the Secretary of Education, to develop a voluntary risk-management policy for food allergy and anaphylaxis in schools and to make such policy available to local educational agencies and other interested parties. It directs that such policy address: a parental obligation to provide the school with information regarding a student's food allergy and risk of anaphylaxis; creation of an individual healthcare plan tailored to each student with a documented risk for anaphylaxis; communication strategies between schools and emergency medical services; strategies to reduce the risk of exposure in classrooms and common areas; food allergy management training of school personnel; and authorization and training of school personnel to administer epinephrine if the school nurse is not immediately available.

H.R. 2063 also specifies that State law is not preempted, either by the Act or by such policy, including any State law regarding self-administered medication for students at risk of anaphylaxis.

*Legislative History*

On April 26, 2007, H.R. 2063 was introduced by Representative Lowey. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On April 30, 2007, H.R. 2063 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 2063 to the full Committee, amended, by a voice vote.

On March 13, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 2063 was ordered favorably reported, as amended, by a voice vote.

On April 8, 2008, H.R. 2063 was reported to the House, amended, by the Committee on Energy and Commerce (H. Rept. 110-571, Part 1). The Committee on Education and Labor was discharged from further consideration of the measure.

On April 8, 2008, H.R. 2063 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On April 9, 2008, H.R. 2063 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 2063 in the 110th Congress.

#### WAKEFIELD ACT

(H.R. 2464)

To amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children.

#### *Summary*

Although Early Emergency Medical Services (EMS) systems and hospital emergency departments are widely assumed to be equally capable of caring for children and adults, in fact, in many EMS systems, children's needs have been overlooked as services were developed for adult trauma and cardiac patients.

H.R. 2464 reauthorizes the Emergency Medical Services for Children (EMSC) program within the U.S. Department of Health and Human Services (HHS). The EMSC program began in 1984 and is designed to ensure state-of-the-art emergency medical care for ill or injured children and adolescents. It covers the entire spectrum of emergency medical care. The EMSC program provides grants to States to improve existing EMS systems and to schools of medicine to develop and evaluate improved procedures and protocols for treating children.

Since its establishment more than 20 years ago, the EMSC program has driven major improvements in emergency care for children. Injury-related deaths among children have dropped by 40 percent over that period. Enormous strides have been made in areas such as ensuring that all ambulances carry appropriate pediatric equipment and supplies, establishing transfer protocols to assure that severely injured children are sent to the facilities best able to care for them, and collecting and analyzing data on pediatric emergency care to inform future efforts towards improvement.

Although much progress has been achieved, more remains to be done. H.R. 2464 amends the PHSA to extend by one year the length of time for which a grant may be awarded under the EMSC program. In addition, H.R. 2464 requires that the HHS Secretary support emergency medical services for children by supporting projects that: develop and present scientific evidence; promote ex-

isting innovative technologies appropriate for the care of children; and provide information on health outcomes, effectiveness, and cost-effectiveness. H.R. 2464 directs that such projects strive to enhance the pediatric capability of emergency medical service systems; and be coordinated with all research, evaluations, and awards undertaken by the Federal Government related to emergency medical services for children.

#### *Legislative History*

On May 23, 2007, H.R. 2464 was introduced by Representative Matheson and referred to the Committee on Energy and Commerce. On May 23, 2007, H.R. 2464 was referred to the Subcommittee on Health.

On March 11, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 2464 to the full Committee, amended, by a voice vote.

On March 13, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 2464 was ordered favorably reported, as amended, by a voice vote.

On April 8, 2008, H.R. 2464 was reported to the House (H. Rept. 110–568) and placed on the Union Calendar, Calendar No. 350.

On April 8, 2008, H.R. 2464 passed the House, as amended, under suspension of the rules by a rollcall vote: 390–1.

On April 9, 2008, H.R. 2464 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 2464 in the 110th Congress.

#### PHYSICIAN WORKFORCE ENHANCEMENT ACT OF 2008

#### H.R. 2583

To amend title VII of the Public Health Service Act to establish a loan program for eligible hospitals to establish residency training programs.

#### *Summary*

Recent trends in the physician workforce demonstrate that the growth in the physician workforce is not keeping pace with general population growth. Certain areas of practice, including primary care and pediatrics, are expected to have more critical shortages in the future. In 2006, the American College of Physicians released a report entitled ‘The Impending Collapse of Primary Care Medicine and Its Implications for the State of the Nation’s Health Care.’ According to that report, as the demand has grown for primary care due to growth in the number of people with chronic diseases and long-term care needs of an aging population, there has been a decline in the number of medical students and training opportunities for primary care. This problem will only be further exacerbated by the decline of the physician workforce in years to come.

Residency training programs are an integral way to attract physicians, particularly in hard-to-serve areas such as rural areas. In the 16th report of the Council of Graduate Medical Education, entitled, ‘Physician Workforce Policy Guidelines for the United States, 2000–2020,’ the Council recommended that the number of physi-



cians entering residency training each year should be increased to 27,000 by 2015 to meet projected demand of medical services. The Council recommends a multifaceted approach to achieve this increase, and one important part of that plan is to facilitate a modest increase in medical education and training capacity over the next decade.

H. R. 2583 amends the Public Health Service Act to establish a loan program for public or non-profit hospitals to establish residency training programs in allopathic and osteopathic medicine, with a preference for hospitals located in rural areas. The list of eligible professions includes family medicine, internal medicine, obstetrics or gynecology, behavioral or mental health, and pediatrics. H.R. 2583 establishes the date to commence repayment as 18 months, the repayment period as 24 months, and loan limits of \$250,000. In addition, H.R. 2583 allows the Secretary to collect interest together with any other penalties on defaulted loans and authorizes appropriations for this program from FY09 to FY13.

#### *Legislative History*

On June 6, 2007, H.R. 2583 was introduced by Representative Burgess and referred to the Committee on Energy and Commerce. That same day, the measure was referred to the Subcommittee on Health.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 2583 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, the Committee on Energy and Commerce reported H.R. 2583 to the House, amended (H. Rept. 110–872).

On September 23, 2008, H.R. 2583 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On September 25, 2008, H.R. 2583 was received in the Senate. On October 2, 2008, H.R. 2583 was read twice and referred to the Senate Committee on Health, Education, Labor and Pensions.

No further action was taken on H.R. 2583 in the 110th Congress.

#### NATIONAL PAIN CARE POLICY ACT OF 2007

#### H.R. 2994

To amend the Public Health Service Act with respect to pain care.

#### *Summary*

Pain is the most common reason Americans access the health care system and is a leading cause of disability and major contributor to health care costs. The National Center for Health Statistics estimates that 76.2 million, or one in every four Americans, have suffered from pain that lasts longer than 24 hours and millions more suffer from acute pain. Most painful conditions can be relieved with proper treatment, and providing adequate pain management is a crucial component of improving and maintaining quality of life for patients, survivors, and their loved ones. People in pain, however, often face significant barriers that can prevent prop-

er assessment, diagnosis, treatment, and management of their pain. Left untreated, pain can decrease the quality of life and affect every aspect of daily living, including work, sleep, and social relations.

H.R. 2994 requires the HHS Secretary to enter into an agreement with the IOM of the National Academies to convene a Conference on Pain and write a report summarizing the conclusions of the Conference. The purpose of the Conference shall be to increase the recognition of pain as a significant public health problem in the United States; evaluate the adequacy of assessment, diagnosis, treatment, and management of acute and chronic pain in the general population; identify racial, ethnic, gender, age, and other demographic groups that may be disproportionately affected by inadequacies in the system; identify barriers to appropriate pain care; and establish an agenda for action in both the public and private sectors that will reduce such barriers and significantly improve the state of pain care research, education, and clinical care in the United States.

This legislation encourages the NIH Director, through the Pain Consortium, to aggressively expand research on the causes of and potential treatments for pain. In addition, the bill requires the Pain Consortium, or another entity the Director deems appropriate, to provide recommendations on pain research initiatives that could be funded through the Common Fund.

H.R. 2994 also creates an Interagency Coordinating Committee charged with identifying critical gaps in pain research. It also provides authorization for a grant program to provide education and training to health care professionals in pain care. Finally, H.R. 2994 requires that the Secretary establish and implement a national pain care education outreach and awareness campaign. The Secretary shall then prepare and submit a report to Congress evaluating the effectiveness of the public awareness campaign in educating the general public.

#### *Legislative History*

On July 11, 2007, H.R. 2994 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. That same day, H.R. 2994 was referred to the Subcommittee on Health.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 2994 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, H.R. 2994 was reported to the House, amended (H. Rept. 110–871).

On September 24, 2008, H.R. 2994 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On September 25, 2008, H.R. 2994 was received in the Senate.

On October 2, 2008, H.R. 2994 was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 2994 in the 110th Congress.

THE TOM LANTOS PULMONARY HYPERTENSION RESEARCH AND  
EDUCATION ACT OF 2008

## H.R. 6568

To direct the Secretary of Health and Human Services to encourage research and carry out an educational campaign with respect to pulmonary hypertension, and for other purposes.

*Summary*

Pulmonary hypertension (PH) is increased pressure in the pulmonary arteries. These arteries carry blood from the heart to the lungs to pick up oxygen. PH causes symptoms such as shortness of breath during routine activity, tiredness, chest pain, and a racing heartbeat. As the disease worsens, its symptoms may limit all physical activity. PH has no cure, but research for new treatments is ongoing. The earlier PH is treated, the easier it is to control.

H.R. 6568 includes a sense of Congress that the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health and the Director of the National Heart, Lung, and Blood Institute should continue aggressive work on pulmonary hypertension. H.R. 6568 requires that NIH's biennial report to Congress include information on the status of pulmonary hypertension research at NIH.

H.R. 6568 also requires the HHS Secretary, acting through the Director of the Centers for Disease Control and Prevention (CDC), to carry out an educational campaign to increase public awareness of pulmonary hypertension. The bill also requires the HHS Secretary, acting through the Administrator of the Health Resources and Services Administration and the CDC Director, to carry out an educational campaign to increase awareness of pulmonary hypertension among health care providers.

Finally, H.R. 6568 requires the Comptroller General of the United States to conduct a study on the coverage standards that apply to patients with pulmonary hypertension and submit a description of the study's findings to the Congress by September 30, 2009.

*Legislative History*

On July 22, 2008, H.R. 6568 was introduced by Representative Brady. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 23, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6568 was ordered favorably reported by a voice vote.

On September 25, 2008, H.R. 6568 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On September 26, H.R. 6568 was received in the Senate.

No further action was taken on H.R. 6568 in the 110th Congress.

## METH FREE FAMILIES AND COMMUNITIES ACT

## H.R. 6901

To amend the Public Health Service Act to provide for the establishment of a drug-free workplace information clearinghouse, to support residential methamphetamine treatment programs for pregnant and parenting women, to improve the prevention and treatment of methamphetamine addiction, and for other purposes.

*Summary*

Methamphetamine is a powerful and addictive central nervous system stimulant used to treat a limited number of medical conditions, including narcolepsy, attention deficit disorder/attention deficit/hyperactivity disorder (ADD/ADHD), and obesity. Methamphetamine use can cause convulsions, stroke, cardiac arrhythmia, and hyperthermia. Chronic use can lead to irreversible brain and heart damage, psychotic behavior including paranoid ideation, visual and auditory hallucinations, and rages and violence.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA), illicit methamphetamine production and use are longstanding and severe problems throughout the country, and there are indications that abuse may be spreading. The National Institute of Justice states that methamphetamine use has spread to every State.

Over the past 30 years, Congress has passed legislation designed to address the problem of illicit methamphetamine abuse and its production in clandestine labs, including legislation to regulate methamphetamine precursor chemicals, enhanced penalties for drug trafficking, and increased funding for methamphetamine-specific law enforcement programs. Recent congressional concern about the spreading use of methamphetamine fueled much of the legislative debate during the 109th Congress, culminating in the passage of the Combat Methamphetamine Epidemic Act of 2005.

H.R. 6901 amends the Public Health Service Act to improve prevention and treatment programs for methamphetamine addiction. Further, the legislation: requires the Center for Substance Abuse Treatment Director to collaborate with professionals in the addiction field and health care providers on recognizing the signs of methamphetamine addiction and recognizing vulnerable populations for purposes of preventing and treating such addiction; expands the residential substance abuse treatment grant program to provide to pregnant and postpartum women access to substance abuse treatment; requires the HHS Secretary to expand, intensify, and coordinate efforts to provide treatment for methamphetamine addiction to pregnant and parenting women.

In addition, H.R. 6901 gives priority in awarding grants under this Act to any entity that agrees to use the award for programs serving an area that: is a rural area, an area with a shortage of mental health professionals, or an area with a shortage of family-based substance abuse treatment options; and has high rates of addiction to methamphetamine or other drugs.

H.R. 6901 also requires the Clearinghouse Director to provide information and educational materials to employers and employees about drug testing policies and programs; and expands grants for

the prevention of methamphetamine and inhalant abuse and addiction to public and nonprofit entities who seek to develop student-driven, adult-supervised methamphetamine awareness projects.

#### *Legislative History*

On September 15, 2008, H.R. 6901 was introduced by Representative Hooley and referred to the Committee on Energy and Commerce.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6901 was ordered favorably reported by a voice vote.

On September 23, 2008, H.R. 6901 was considered under suspension of the rules and on September 25, 2008, H.R. 6901 passed the House by a voice vote, two-thirds having voted in favor thereof.

On September 26, 2008, H.R. 6901 was received in the Senate. No further action was taken on H.R. 6901 in the 110th Congress.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL BLACK HIV/AIDS  
AWARENESS DAY

(H. Con. Res. 35)

#### *Supporting the goals and ideals of National Black HIV/AIDS Awareness Day*

##### *Summary*

H. Con. Res. 35 supports the goals and ideals of National Black HIV/AIDS Awareness Day as February 7 and recognizes the seventh anniversary of this commemoration. It also supports full and equitable funding for the Ryan White HIV/AIDS Treatment Modernization Act of 2006 and applauds the codification of the Minority AIDS Initiative within the reauthorization of the Ryan White CARE Act.

#### *Legislative History*

On January 18, 2007, H. Con. Res. 35 was introduced by Representative Lee and referred to the Committee on Energy and Commerce. On February 2, 2007, H. Con. Res. 35 was referred to the Subcommittee on Health.

On February 5, 2007, H. Con. Res. 35 passed the House, as amended, under suspension of the rules by a rollcall vote: 396–0.

On February 6, 2007, H. Con. Res. 35 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 35 in the 110th Congress.

SUPPORTING THE GOALS AND IDEALS OF AMERICAN HEART MONTH

(H. Con. Res. 52)

##### *Summary*

H. Con. Res. 52 supports the goals and ideals of American Heart Month during February. It also recognizes and reaffirms our Nation's commitment to fighting heart disease by promoting awareness about its causes, risks, and prevention and by promoting new

education programs, supporting research, and expanding access to medical treatment.

#### *Legislative History*

On January 31, 2007, H. Con. Res. 52 was introduced by Representative Millender-McDonald and referred to the Committee on Energy and Commerce. On February 2, 2007, H. Con. Res. 52 was referred to the Subcommittee on Health.

On February 27, 2007, H. Con. Res. 52 was considered in the House under suspension of the rules. The yeas and nays were ordered and further proceedings on the motion were postponed.

On February 28, 2007, H. Con. Res. 52 was considered as unfinished business and passed the House by rollcall vote: 412–0.

On March 1, 2007, H. Con. Res. 52 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 52 in the 110th Congress.

EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE NEED FOR  
ADDITIONAL RESEARCH INTO THE CHRONIC NEUROLOGICAL CONDI-  
TION HYDROCEPHALUS, AND FOR OTHER PURPOSES

(H. Con. Res. 74)

#### *Summary*

H. Con. Res. 74 commends the Director of the National Institutes of Health (NIH) for working with leading scientists and researchers to organize the first-ever NIH conference on hydrocephalus (a neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain). It also urges the Director to continue the current collaboration with respect to hydrocephalus among national research institutes.

#### *Legislative History*

On February 16, 2007, H. Con. Res. 74 was introduced by Representative Mike Thompson and referred to the Committee on Energy and Commerce. On February 27, 2007, H. Con. Res. 74 was referred to the Subcommittee on Health.

On February 27, 2007, H. Con. Res. 74 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

On February 28, 2007, H. Con. Res. 74 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 74 in the 110th Congress.

SUPPORTING THE GOALS AND IDEALS OF A LONG-TERM CARE  
AWARENESS WEEK

(H. Con. Res. 133)

*Summary*

H. Con. Res. 133 supports the goals and ideals of a Long-Term Care Awareness Week from November 4th to November 10th. It also encourages the Secretary of Health and Human Services to continue working to educate people in the United States about long-term care.

*Legislative History*

On April 26, 2007, H. Con. Res. 133 was introduced by Representative Herseth Sandlin and referred to the Committee on Energy and Commerce. On April 30, 2007, H. Con. Res. 133 was referred to the Subcommittee on Health.

On October 15, 2007, H. Con. Res. 133 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

On October 16, 2007, H. Con. Res. 133 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 133 in the 110th Congress.

EXPRESSING THE SENSE OF THE CONGRESS THAT THERE SHOULD BE  
ESTABLISHED A BEBE MOORE CAMPBELL NATIONAL MINORITY MEN-  
TAL HEALTH AWARENESS MONTH TO ENHANCE PUBLIC AWARENESS  
OF MENTAL ILLNESS, ESPECIALLY WITHIN MINORITY COMMUNITIES

(H. Con. Res. 134)

*Summary*

H. Con. Res. 134 expresses the sense of Congress that July is an appropriate month to designate Bebe Moore Campbell National Minority Mental Health Awareness Month to enhance public awareness of mental illness and mental illness among minorities. It also states there is an important need for improved access to care, treatment, and services for those diagnosed with severe and persistent mental health disorders.

*Legislative History*

On April 30, 2007, H. Con. Res. 134 was introduced by Representative Wynn and referred to the Committee on Energy and Commerce. On April 30, 2007, H. Con. Res. 134 was referred to the Subcommittee on Health.

On May 19, 2008, H. Con. Res. 134 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 21, 2008, H. Con. Res. 134 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On June 2, 2008, H. Con. Res. 134 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 134 in the 110th Congress.

EXPRESSING THE SENSE OF CONGRESS IN SUPPORT OF FURTHER RESEARCH AND ACTIVITIES TO INCREASE PUBLIC AWARENESS, PROFESSIONAL EDUCATION, DIAGNOSIS, AND TREATMENT OF DANDY-WALKER SYNDROME AND HYDROCEPHALUS

(H. Con. Res. 163)

#### *Summary*

H. Con. Res. 163 expresses the sense of Congress that the Director of the National Institutes of Health should continue the current collaboration of agencies with respect to Dandy-Walker syndrome. It also urges further research into the epidemiology, diagnosis, pathophysiology, disease burden, and improved treatment of Dandy-Walker syndrome and hydrocephalus. Finally, it calls for greater public awareness and professional education regarding Dandy-Walker syndrome.

#### *Legislative History*

On May 24, 2007, H. Con. Res. 163 was introduced by Representative Wilson and referred to the Committee on Energy and Commerce. On May 24, 2007, H. Con. Res. 163 was referred to the Subcommittee on Health.

On June 24, 2008, H. Con. Res. 163 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On June 26, 2008, H. Con. Res. 163 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On June 27, 2008, H. Con. Res. 163 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

On September 22, 2008, the Senate agreed to H. Con. Res. 163 by unanimous consent.

RECOGNIZING THE NEED TO PURSUE RESEARCH INTO THE CAUSES, A TREATMENT, AND AN EVENTUAL CURE FOR IDIOPATHIC PULMONARY FIBROSIS, SUPPORTING THE GOALS AND IDEALS OF NATIONAL IDIOPATHIC PULMONARY FIBROSIS AWARENESS WEEK, AND FOR OTHER PURPOSES

(H. Con. Res. 182)

#### *Summary*

H. Con. Res. 182 recognizes the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis. It also supports the work of advocates and organizations in educating, supporting, and providing hope for individuals who suffer from idiopathic pulmonary fibrosis. Finally, it supports the



goals and ideals of a National Idiopathic Pulmonary Fibrosis Awareness Week.

*Legislative History*

On July 12, 2007, H. Con. Res. 182 was introduced by Representative Deal and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 182 was referred to the Subcommittee on Health.

On October 15, 2007, H. Con. Res. 182 was considered in the House under suspension of the rules. The yeas and nays were demanded and further proceedings on the motion were postponed.

On October 16, 2007, H. Con. Res. 182 was considered as unfinished business and passed the House by a rollcall vote: 414–0.

On October 17, 2007, H. Con. Res. 182 was received in the Senate, considered, and agreed to by unanimous consent.

SUPPORTING THE OBSERVANCE OF BREAST CANCER AWARENESS  
MONTH, AND FOR OTHER PURPOSES

(H. Con. Res. 230)

*Summary*

H. Con. Res. 230 supports the observance of Breast Cancer Awareness Month in order to provide a special opportunity to offer education on the importance of monthly breast self-examinations and annual mammograms. It also commends breast cancer survivors and the efforts of professionals and community organizations that work to combat breast cancer.

*Legislative History*

On October 10, 2007, H. Con. Res. 230 was introduced by Representative Brown-Waite and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 230 was referred to the Subcommittee on Health.

On October 29, 2007, H. Con. Res. 230 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

On October 30, 2007, H. Con. Res. 230 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 230 in the 110th Congress.

EXPRESSING SUPPORT FOR THE DESIGNATION OF AUGUST 2008 AS NA-  
TIONAL HEAT STROKE AWARENESS MONTH TO RAISE AWARENESS  
AND ENCOURAGE PREVENTION OF HEAT STROKE

(H. Con. Res. 296)

*Summary*

H. Con. Res. 296 supports the designation of August 2008 as National Heat Stroke Awareness Month to provide an opportunity to educate the people of the United States about heat stroke.

*Legislative History*

On February 13, 2008, H. Con. Res. 296 was introduced by Representative Boozman and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 296 was referred to the Subcommittee on Health.

On July 30, 2008, H. Con. Res. 296 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On August 1, 2008, H. Con. Res. 296 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

On September 22, 2008, H. Con. Res. 296 passed the Senate by unanimous consent.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL CYSTIC FIBROSIS  
AWARENESS MONTH

(H. Con. Res. 299)

*Summary*

H. Con. Res. 299 honors the goals and ideals of National Cystic Fibrosis Awareness Month during May. It also promotes public awareness and understanding of cystic fibrosis. Finally, it urges support for research to find a cure for cystic fibrosis by fostering enhanced research programs and expanded public-private partnerships.

*Legislative History*

On February 14, 2008, H. Con. Res. 299 was introduced by Representative Markey and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 299 was referred to the Subcommittee on Health.

On July 15, 2008, H. Con. Res. 299 passed the House, as amended under suspension of the rules by a voice vote, two-thirds having voted in favor.

On July 16, 2008, H. Con. Res. 299 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 230 in the 110th Congress.

SUPPORTING THE OBSERVANCE OF COLORECTAL CANCER AWARENESS  
MONTH, AND FOR OTHER PURPOSES

(H. Con. Res. 302)

*Summary*

H. Con. Res. 302 supports the observance of Colorectal Cancer Awareness Month during March in order to provide a special opportunity to offer education on the importance of early detection and screening. It also encourages organizations and health care practitioners to earn a blue star by supporting early identification and removal of pre-cancerous polyps.

*Legislative History*

On February 25, 2008, H. Con. Res. 302 was introduced by Representative Granger and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 302 was referred to the Subcommittee on Health.

On March 31, 2008, H. Con. Res. 302 passed the House under suspension of the rules by a rollcall vote: 371–0.

On April 1, 2008, H. Con. Res. 302 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 302 in the 110th Congress.

EXPRESSING CONGRESSIONAL SUPPORT FOR THE GOALS AND IDEALS  
OF NATIONAL HEALTH CARE DECISIONS DAY

(H. Con. Res. 323)

*Summary*

H. Con. Res. 323 supports the goals and ideals of National Health Care Decision Day on April 16, 2008. It also encourages those 18 years of age and older to prepare advance directives.

*Legislative History*

On April 8, 2008, H. Con. Res. 323 was introduced by Representative Gingrey and referred to the Committee on Energy and Commerce. On April 9, 2008, H. Con. Res. 323 was referred to the Subcommittee on Health.

On April 22, 2008, H. Con. Res. 323 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

On April 23, 2008, H. Con. Res. 323 was received in the Senate and placed on the Senate Legislative Calendar under General Orders—Calendar No. 713.

No further action was taken on H. Con. Res. 323 in the 110th Congress.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL WOMEN’S HEALTH  
WEEK, AND FOR OTHER PURPOSES

(H. Con. Res. 331)

*Summary*

H. Con. Res. 331 supports the goals and ideals of National Women’s Health Week from May 11 through May 17. It also recognizes the importance of federally funded programs that provide research and collect data on common diseases in women.

*Legislative History*

On April 17, 2008, H. Con. Res. 331 was introduced by Representative Hinchey and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 331 was referred to the Subcommittee on Health.

On May 14, 2008, H. Con. Res. 331 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

On May 19, 2008, H. Con. Res. 331 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 331 in the 110th Congress.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL SUDDEN CARDIAC  
ARREST AWARENESS MONTH

(H. Con. Res. 393)

*Summary*

H. Con. Res. 393 supports the goals and ideals of “National Sudden Cardiac Arrest Awareness Month” during October. It also supports efforts to educate people about sudden cardiac arrest and to raise awareness about the risk of sudden cardiac arrest, identifying warning signs, and the need to seek medical attention in a timely manner.

*Legislative History*

On July 22, 2008, H. Con. Res. 393 was introduced by Representative Pickering and referred to the Committee on Energy and Commerce. That same day, H. Con. Res. 393 was referred to the Subcommittee on Health.

On September 23, 2008, H. Con. Res. 393 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On September 25, 2008, H. Con. Res. 393 was considered as unfinished business and passed the House by a voice vote, two-thirds having voted in favor.

On September 26, 2008, H. Con. Res. 393 was received in the Senate.

On October 2, 2008, H. Con. Res. 393 was referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 393 in the 110th Congress.

RECOGNIZING THE 10TH ANNIVERSARY OF THE ESTABLISHMENT OF  
THE MINORITY AIDS INITIATIVE

(H. Con. Res. 426)

*Summary*

H. Con. Res. 426 recognizes and commemorates the 10th anniversary of the establishment of the Minority AIDS Initiative. It also supports the continuing efforts of the Minority AIDS Initiative to stop the spread of HIV/AIDS and urges effective, compassionate treatment and care to individuals affected by HIV/AIDS.

*Legislative History*

On September 24, 2008, H. Con. Res. 426 was introduced by Representative Waters and referred to the Committee on Energy and Commerce.

On September 27, 2008, H. Con. Res. 426 was considered in the House under unanimous consent. Mr. Pallone offered two amendments to make sundry and clarifying changes to the resolution. The amendments and then the resolutions were agreed to without objection.

On September 29, 2008, H. Con. Res. 426 was received in the Senate.

On October 2, 2008, H. Con. Res. 426 passed the Senate by unanimous consent.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL EOSINOPHIL  
AWARENESS WEEK, AND FOR OTHER PURPOSES

(H. Res. 296)

*Summary*

H. Res. 296 supports the goals and ideals of National Eosinophil Awareness Week and its designation as the third week in May. It also encourages health care providers and the American Partnership for Eosinophilic Disorders to increase education and awareness regarding eosinophilic disorders.

*Legislative History*

On April 16, 2007, H. Res. 296 was introduced by Representative Larson and referred to the Committee on Energy and Commerce.

On May 15, 2007, H. Res. 296 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES WITH  
RESPECT TO LUNG CANCER AS A PUBLIC HEALTH PRIORITY AND THE  
RECOMMENDATIONS OF THE LUNG CANCER PROGRESS REVIEW  
GROUP OF THE NATIONAL CANCER INSTITUTE

(H. Res. 335)

*Summary*

H. Res. 335 recognizes lung cancer as a public health priority and the importance of taking steps toward reducing the lung cancer mortality rate by at least half by 2015. It also acknowledges the importance of the recommendations of the Lung Cancer Progress Review Group of the National Cancer Institute.

*Legislative History*

On April 24, 2007, H. Res. 335 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. On April 25, 2007, H. Res. 335 was referred to the Subcommittee on Health.

On November 13, 2007, H. Res. 335 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT  
THERE SHOULD BE AN INCREASED COMMITMENT SUPPORTING THE  
DEVELOPMENT OF INNOVATIVE ADVANCED IMAGING TECHNOLOGIES  
FOR PROSTATE CANCER DETECTION AND TREATMENT

(H. Res. 353)

*Summary*

H. Res. 353 expresses the sense of the House of Representatives that there should be increased support for research and development of advanced imaging technologies for prostate cancer detection and treatment.

*Legislative History*

On May 1, 2007, H. Res. 353 was introduced by Representative Cummings and referred to the Committee on Energy and Commerce. That same day, H. Res. 353 was referred to the Subcommittee on Health.

On June 24, 2008, H. Res. 353 was considered in the House under suspension of the rules. Objections were heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On June 26, 2008, H. Res. 353 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

On July 9, 2008, Representative Hill asked unanimous consent that H. Res. 353, which was adopted by the House on June 26, 2008, be considered to have been adopted with the corrected text that was placed at the desk, and that the resolution be re-engrossed in that corrected form. This motion was agreed to without objection.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL OSTEOPOROSIS  
AWARENESS AND PREVENTION MONTH

(H. Res. 369)

*Summary*

H. Res. 369 supports the goals and ideals of National Osteoporosis Awareness and Prevention Month during May. It also urges the people of the United States to observe appropriate programs and activities with respect to osteoporosis.

*Legislative History*

On May 3, 2007, H. Res. 369 was introduced by Representative Berkley and referred to the Committee on Energy and Commerce. That same day, H. Res. 369 was referred to the Subcommittee on Health.

On May 19, 2008, H. Res. 369 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 21, 2008, H. Res. 369 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT  
THERE SHOULD BE ESTABLISHED A NATIONAL CANCER RESEARCH  
MONTH, AND FOR OTHER PURPOSES

(H. Res. 448)

*Summary*

H. Res. 448 expresses the sense that the U.S. House of Representatives should establish May as the National Cancer Research Month. It also recognizes the American Association of Cancer for its invaluable contributions to preventing and curing cancer.

*Legislative History*

On May 24, 2007, H. Res. 448 was introduced by Representative Matheson and referred to the Committee on Energy and Commerce. That same day, H. Res. 448 was referred to the Subcommittee on Health.

On October 15, 2007, H. Res. 448 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

SUPPORTING EFFORTS TO INCREASE CHILDHOOD CANCER AWARENESS,  
TREATMENT, AND RESEARCH

(H. Res. 470)

*Summary*

H. Res. 470 resolves that Congress should support public and private sector efforts to promote awareness about the incidence of cancer among children, the signs and symptoms of cancer in children, treatment options, and long-term follow-up. It also states that Congress should support increased public and private investment in childhood cancer research to improve prevention, diagnosis, treatment, rehabilitation, post-treatment monitoring, and long-term survival.

*Legislative History*

On June 7, 2007, H. Res. 470 was introduced by Representative Pryce and referred to the Committee on Energy and Commerce. That same day, H. Res. 470 was referred to the Subcommittee on Health.

On September 25, 2007, H. Res. 470 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor.

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES WITH  
RESPECT TO DIAMOND-BLACKFAN ANEMIA

(H. Res. 524)

*Summary*

H. Res. 524 recognizes that the identification of Diamond-Blackfan Anemia ("DBA") may identify implications of cancer predisposition and serve as an important model for understanding human development and the molecular basis for certain birth de-

fects. It also encourages research efforts to further understand ribosomal protein deficiencies in rare inherited diseases and to advance the treatment options available to those with DBA.

*Legislative History*

On June 27, 2007, H. Res. 524 was introduced by Representative McCarthy and referred to the Committee on Energy and Commerce. That same day, H. Res. 524 was referred to the Subcommittee on Health.

On October 15, 2007, H. Res. 524 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

SUPPORTING THE GOALS AND IDEALS OF CHILDREN'S HEALTH MONTH

(H. Res. 760)

*Summary*

H. Res. 760 supports the goals and ideals of Children's Health Month during October. It also recognizes and reaffirms our Nation's commitment to providing access to health care, ensuring preventative care, seeking cures for debilitating diseases and chronic conditions, and promoting healthy living habits for America's children.

*Legislative History*

On October 18, 2007, H. Res. 760 was introduced by Representative Castor and referred to the Committee on Energy and Commerce.

On November 8, 2007, H. Res. 760 was referred to the Subcommittee on Health.

On November 13, 2007, H. Res. 760 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

RECOGNIZING THE NEED TO PURSUE RESEARCH INTO THE CAUSES, A TREATMENT, AND AN EVENTUAL CURE FOR PRIMARY LATERAL SCLEROSIS, SUPPORTING THE GOALS AND IDEALS OF PRIMARY LATERAL SCLEROSIS AWARENESS MONTH, AND FOR OTHER PURPOSES

(H. Res. 896)

*Summary*

H. Res. 896 recognizes the need to continue research into the causes, treatment, and an eventual cure for primary lateral sclerosis. It also supports the designation of February 2009 as an appropriate time to recognize "Primary Lateral Sclerosis Awareness Month."

*Legislative History*

On December 19, 2007, H. Res. 896 was introduced by Representative Baca and referred to the Committee on Energy and Commerce. That same day, H. Res. 896 was referred to the Subcommittee on Health.



On July 30, 2008, H. Res. 896 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

SUPPORTING THE GOALS AND IDEALS OF AMERICAN HEART MONTH  
AND NATIONAL WEAR RED DAY

(H. Res. 972)

*Summary*

H. Res. 972 supports the goals and ideals of “American Heart Month” and “National Wear Red Day.” It also recognizes and reaffirms our commitment to fighting heart disease and stroke by promoting awareness about its causes, risks, and prevention, supporting research, and expanding access to medical treatment.

*Legislative History*

On February 12, 2008, H. Res. 972 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. That same day, H. Res. 972 was referred to the Subcommittee on Health.

On February 13, 2008, H. Res. 972 was considered in the House under suspension of the rules. The yeas and nays were demanded and further proceedings on the motion were postponed.

On February 14, 2008, H. Res. 972 was considered as unfinished business and passed the House by a rollcall vote: 389–0.

RECOGNIZING MARCH 6, 2008, AS THE FIRST-EVER WORLD GLAUCOMA  
DAY, ESTABLISHED TO INCREASE AWARENESS OF GLAUCOMA, WHICH  
IS THE SECOND LEADING CAUSE OF PREVENTABLE BLINDNESS IN  
THE UNITED STATES AND WORLDWIDE

(H. Res. 981)

*Summary*

H. Res. 981 recognizes the first-ever World Glaucoma Day as March 6, 2008. It also supports the efforts of the National Eye Institute within the National Institutes of Health to continue research on the causes of glaucoma, including genetic and environmental risk factors, glaucoma prevention, the relationships between damage to the optic nerve and loss of vision, societal and individual impacts, diagnostics, and treatment to save and potentially restore sight.

*Legislative History*

On February 13, 2008, H. Res. 981 was introduced by Representative Baldwin and referred to the House Committee on Energy and Commerce. That same day, H. Res. 981 was referred to the Subcommittee on Health.

On April 22, 2008, H. Res. 981 passed the House, as amended, under suspension of the rules by a rollcall vote: 387–0.

DESIGNATING THE MONTH OF MARCH 2008 AS MRSA AWARENESS  
MONTH

(H. Res. 988)

*Summary*

H. Res. 988 recognizes the importance of reducing the transmission of infections in hospitals and ensuring appropriate use and utilization of antibiotics to meet patient and public health needs. It also recognizes the importance of raising awareness of MRSA and methods of preventing MRSA infections.

*Legislative History*

On February 14, 2008, H. Res. 988 was introduced by Representative Matheson and referred to the Committee on Energy and Commerce. That same day, H. Res. 988 was referred to the Subcommittee on Health.

On September 23, 2008, H. Res. 988 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On September 25, 2008, H. Res. 988 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

## REDUCING MATERNAL MORTALITY BOTH AT HOME AND ABROAD

(H. Res. 1022)

*Summary*

H. Res. 1022 affirms the House of Representatives' commitment to promoting maternal health and child survival both at home and abroad through greater international investment and participation. It also recognizes maternal health and child survival as fundamental to the well-being of families and societies, and to global development and prosperity.

*Legislative History*

On February 5, 2008, H. Res. 1022 was introduced by Representative Capps and referred to the Committee on Energy and Commerce. That same day, H. Res. 1022 was referred to the Subcommittee on Health.

On May 19, 2008, H. Res. 1022 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 21, 2008, H. Res. 1022 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

## SUPPORTING THE WE DON'T SERVE TEENS CAMPAIGN

(H. Res. 1042)

*Summary*

H. Res. 1042 supports the goals and ideals of campaigns working to prevent underage drinking of alcoholic beverages, such as the We don't Serve Teens Campaign.

*Legislative History*

On March 12, 2008, H. Res. 1042 was introduced by Representative Bono Mack and referred to the Committee on Energy and Commerce. That same day, H. Res. 1042 was referred to the Subcommittee on Health.

On September 23, 2008, H. Res. 1042 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

RECOGNIZING NATIONAL NURSES WEEK ON MAY 6 THROUGH MAY 12,  
2008

(H. Res. 1086)

*Summary*

H. Res. 1086 recognizes the significant contributions of nurses to the health care system of the United States. It also supports the goals and ideals of National Nurses Week from May 6 to May 12.

*Legislative History*

On April 8, 2008, H. Res. 1086 was introduced by Representative Bernice Johnson and referred to the Committee on Energy and Commerce. On April 9, 2008, H. Res. 1086 was referred to the Subcommittee on Health.

On May 6, 2008, H. Res. 1086 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 8, 2008, H. Res. 1086 was considered as unfinished business and passed the House by a voice vote, two-thirds having voted in favor.

EXPRESSING SUPPORT FOR THE DESIGNATION OF APRIL 2008 AS NATIONAL AUTISM AWARENESS MONTH AND SUPPORTING EFFORTS TO DEVOTE NEW RESOURCES TO RESEARCH INTO THE CAUSES AND TREATMENT OF AUTISM AND TO IMPROVE TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

(H. Res. 1106)

*Summary*

H. Res. 1106 expresses support for the designation of April as 'National Autism Awareness Month'. It also supports the goal of devoting new resources to researching the root causes of autism, identifying the best methods of early intervention and treatment,

expanding programs for individuals with autism across their lifespans, and promoting understanding of the special needs of people with autism.

#### *Legislative History*

On April 14, 2008, H. Res. 1106 was introduced by Representative Reichert and referred to the Committee on Energy and Commerce. On April 15, 2008, H. Res. 1106 was referred to the Subcommittee on Health.

On May 19, 2008, H. Res. 1106 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 21, 2008, H. Res. 1106 was considered as unfinished business and passed the House by a voice vote, two-thirds having voted in favor.

EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT  
THERE SHOULD BE ESTABLISHED A NATIONAL BRAIN TUMOR AWARE-  
NESS MONTH, AND FOR OTHER PURPOSES

(H. Res. 1124)

#### *Summary*

H. Res. 1124 expresses the sense of the House of Representatives that May should be National Brain Tumor Awareness Month. It also applauds the actions of those who strive to combat and raise public awareness of brain tumors and brain cancer.

#### *Legislative History*

On April 22, 2008, H. Res. 1124 was introduced by Representative Schakowsky and referred to the Committee on Energy and Commerce. That same day, H. Res. 1124 was referred to the Subcommittee on Health.

On May 19, 2008, H. Res. 1124 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 21, 2008, H. Res. 1124 was considered as unfinished business and passed the House, as amended, by a voice vote, two-thirds having voted in favor.

SUPPORTING THE GOALS AND IDEALS OF MENTAL HEALTH MONTH

(H. Res. 1134)

#### *Summary*

H. Res. 1134 supports the goals and ideals of Mental Health Month as May 2008 in order to emphasize scientific facts and findings regarding mental health and to remove the stigma associated therewith. It also supports the findings of the President's Commission on Mental Health that the Nation's failure to prioritize mental health is a national tragedy. Further, it encourages all organizations and health practitioners to use Mental Health Month as an opportunity to promote mental well-being and awareness, ensure

access to appropriate services, and support overall quality of life for those with mental illness.

*Legislative History*

On April 23, 2008, H. Res. 1134 was introduced by Representative Napolitano and referred to the Committee on Energy and Commerce. That same day, H. Res. 1134 was referred to the Subcommittee on Health.

On May 14, 2008, H. Res. 1134 was considered in the House under suspension of the rules. Objection was heard regarding the presence of a quorum; further proceedings on the motion were postponed.

On May 14, 2008, H. Res. 1134 was considered as unfinished business and passed the House by a rollcall vote: 421–0.

SUPPORTING THE GOALS AND IDEALS OF TAY-SACHS AWARENESS  
MONTH

(H. Res. 1333)

*Summary*

H. Res. 1333 supports the goals and ideals of Tay-Sachs Awareness Month and encourages and supports education and research efforts with respect to Tay-Sachs disease.

*Legislative History*

On July 10, 2008, H. Res. 1333 was introduced by Representative Arcuri and referred to the Committee on Energy and Commerce.

On September 25, 2008, H. Res. 1333 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

RESOLUTION EXPRESSING THE SENSE OF THE HOUSE THAT THERE  
SHOULD BE AN INCREASED PUBLIC AND PRIVATE COMMITMENT  
PRIORITIZING PREVENTION AND PUBLIC HEALTH FOR ALL PEOPLE IN  
THE UNITED STATES

(H. Res. 1381)

*Summary*

H. Res. 1381 recognizes that in order to reduce the disease burden and health care costs associated with preventable disease and injury, it is imperative that this Nation strengthen its public health system to encourage all persons in the United States to obtain the proper information and educational resources they need to make healthier choices and live healthier lives; and protect all people in this country from health threats beyond their control, such as bioterrorism, natural disasters, infectious disease outbreaks, and environmental hazards. It also encourages the creation of public health strategies in the public and private sectors to improve the health of all people in the United States regardless of race, ethnicity, or socioeconomic status. Finally, it supports public and private partnerships focusing on the prevention of disease and injury, and encourages community-based programs to support healthy life-

styles, including those that promote proper nutrition and increased access to physical activity.

#### *Legislative History*

On July 29, 2008, H. Res. 1381 was introduced by Representative Roybal-Allard and referred to the Committee on Energy and Commerce. That same day, H. Res. 1381 was referred to the Subcommittee on Health.

On September 23, 2008, H. Res. 1381 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

EXPRESSING SUPPORT FOR DESIGNATION OF THE MONTH OF OCTOBER AS AMERICAN PHARMACISTS MONTH AND EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT ALL PEOPLE IN THE UNITED STATES SHOULD JOIN IN CELEBRATING OUR NATION'S PHARMACISTS FOR THEIR CONTRIBUTIONS TO THE HEALTH AND WELL-BEING OF OUR CITIZENS

(H. Res. 1437)

#### *Summary*

H. Res. 1437 supports the designation of 'American Pharmacists Month' with the theme 'Know Your Medicine/Know Your Pharmacist', encouraging people in the United States to identify a pharmacist as their own, to introduce themselves to that pharmacist, and to open a dialogue by asking questions.

#### *Legislative History*

On September 15, 2008, H. Res. 1437 was introduced by Representative Berry and referred to the Committee on Energy and Commerce.

On September 27, 2008, H. Res. 1437 was considered by unanimous consent and agreed to without objection.

#### OVERSIGHT OR INVESTIGATIVE ACTIVITIES

##### PDUFA Reauthorization

On April 17, 2007, the Subcommittee held an oversight hearing on the reauthorization of the Prescription Drug User Fee Act. With PDUFA set to expire September 30, 2007, swift Congressional action was needed to prevent personnel disruptions at the FDA. The Subcommittee met to review FDA's and interest groups' proposals for PDUFA reauthorization.

##### Biosimilar Policy

On May 2, 2007, the Subcommittee held an oversight hearing entitled, "Assessing the Impact of a Safe and Equitable Biosimilar policy in the United States." The hearing addressed regulatory, safety, and intellectual property concerns associated with the development and approval of generic biologic drugs.

### Drug Safety

On May 9, 2007, the Subcommittee held an oversight hearing to address the safety of our Nation's drug supply and the ability of the FDA to adequately ensure the safety of our Nation's drugs.

### MDUFMA Reauthorization

On May 16, 2007, the Subcommittee held an oversight hearing on the reauthorization of the Medical Device User Fee and Modernization Act. With MDUFMA authorization set to expire on September 30, 2007 FDA and other private interest groups testified on proposed changes to the MDUFMA program.

### 9/11 Health Effects

On September 18, 2007, the Subcommittee held an oversight hearing entitled, "Answering the Call: Medical Monitoring and Treatment of 9/11 Health Effects." Following the September 11th attacks on the World Trade Center, Federal funds were allocated for the creation of the WTC health programs to treat those exposed to health hazards as a result of the attack. The hearing examined concerns GAO raised regarding access and services and GAO's suggestion for more Federal funding for the program.

### STEM CELL SCIENCE

On May 8, 2008 the Subcommittee held an oversight hearing on stem cell science and Federal policy. The hearing examined the current Federal policy limiting Federal funding for human and embryonic stem cell research to existing stem cell lines where the life and death decision has already been made.

### NIH Reform

On September 9, 2008 the Subcommittee held an oversight hearing on the implementation of the NIH Reform Act of 2006. Dr. Elias Zerhouni, then director of the National Institutes of Health, submitted testimony providing an update on how the Act has been implemented at the Institutes.

### HEALTH FINANCE

#### LEGISLATIVE ACTIVITIES

Public Law 110-54 (H.R. 2429, H.R. 3007, S. 1767, S. 1768)

To amend title XVIII of the Social Security Act to provide an exception to the 60-day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces.

#### *Summary*

H.R. 2429 amends title XVIII (Medicare) of the Social Security Act to create an exception to the 60-day limit on Medicare reciprocal billing arrangements in the case of arrangements between two physicians over a longer continuous period during all of which

one of them is ordered to active duty as a member of a reserve component of the armed forces. This exception is applied to medical services provided before January 1, 2008.

#### *Legislative History*

H.R. 2429 was introduced on May 22, 2007 by Representative Mike Thompson. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means.

On May 23, 2007, H.R. 2429 passed the House under suspension of the rules by a rollcall vote: 422–0, and 1 present.

On May 24, 2007, it was referred to the Senate Committee on Finance. On July 24, 2007, the Senate Committee on Finance was discharged from further consideration of H.R. 2429 by unanimous consent. That same day, the bill passed the Senate without amendment by unanimous consent, clearing it for the White House.

H.R. 2429 was presented to the President on July 27, 2007, and signed by the President on August 3, 2007 (Public Law 110–54).

#### PROTECTING THE MEDICAID SAFETY NET ACT OF 2008

#### PUBLIC LAW 110–252 (H.R. 2642, H.R. 5613)

#### *Summary*

H.R. 5613 would place a moratorium until March 2009 on seven Medicaid regulations issued by the Department of Health and Human Services. This would allow time for Congress to fully examine their merit. This legislation would delay the implementation of the following regulations: rehabilitation services, targeted case management (TCM), school-based transportation and outreach, provider taxes, hospital outpatient (OPD), graduate medical education (GME), and intergovernmental transfer (IGT). According to the Congressional Budget Office, these regulations would together reduce Federal Medicaid funding to States for vital programs and services by nearly \$20 billion over the next five years.

#### *Legislative History*

H.R. 5613 was introduced on March 13, 2008, by Representative Dingell and referred to the Committee on Energy and Commerce. On March 14, 2008, the measure was referred to the Subcommittee on Health.

On April 3, 2008, the Subcommittee on Health held a hearing on H.R. 5613.

On April 9, 2008, the Subcommittee on Health met in an open markup session and H.R. 5613 was forwarded to the full Committee, amended, by a voice vote.

On April 16, 2008, the full Committee met in an open markup session and H.R. 5613 was ordered favorably reported, amended, by a rollcall vote: 46–0. On April 22, 2008, the Committee on Energy and Commerce reported H.R. 5613 to the House, amended (H. Rept. 110–600).

On April 23, 2008, H.R. 5613 passed the House, as amended, under suspension of the rules by a rollcall vote: 349–62.

On April 28, 2008, the bill was placed on the Senate Legislative Calendar under General Orders.



The provisions of H.R. 5613 were included in H.R. 2642, the Supplemental Appropriations Act of 2008, which became Public Law 110–252 on June 30, 2008.

#### MICHELLE’S LAW

Public Law 110–381 (H.R. 2851, S. 400)

#### *Summary*

H.R. 2851 amends the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act, and the Internal Revenue Code to prohibit a group health plan from terminating coverage of a dependent child due to a medically necessary leave of absence from a postsecondary education institution or any other change in enrollment at that institution that commences while such child is suffering from a severe illness or injury and causes such child to lose full-time student status before that earlier of: (1) one year after the first day of the medically necessary leave of absence; or (2) the date on which such coverage would otherwise terminate under the terms of the plan. This bill would require certification by the child’s attending physician, and would apply these requirements to coverage offered in the individual market.

#### *Legislative History*

H.R. 2851 was introduced on June 25, 2007, by Representative Hodes. It was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 25, 2007, H.R. 2851 was referred to the Subcommittee on Health.

On July 9, 2008, the Subcommittee on Health met in an open markup session and H.R. 2851 forwarded to the full Committee, amended, by a voice vote.

On July 16, 2008, the full Committee met in an open markup session and H.R. 2851 was ordered favorably reported, amended, by a rollcall vote: 40–0. On July 30, 2008, the Committee on Energy and Commerce reported H.R. 2851 to the House, amended (H. Rept. 110–806, Part 1).

On July 30, 2008, the Committee on Education and Labor and the Committee on Ways and Means were each discharged from further consideration of H.R. 2851. The bill then passed the House, as amended, under suspension of the rules, by a voice vote, two-thirds having voted in favor.

On July 31, 2008, H.R. 2851 was received in the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On September 25, 2008, the Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of H.R. 2851 by unanimous consent. That same day, H.R. 2851 passed the Senate without amendment by unanimous consent, clearing it for the White House.

H.R. 2851 was presented to the President on September 30, 2008, and signed by the President on October 9, 2008 (Public Law 110–381).

#### MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008

Public Law 110–275 (H.R. 6331, H.R. 748, H.R. 6212, H.R. 6252, S. 45, S. 450, S. 1310, S. 2408, S. 3095, S. 3101, S. 3144)

#### *Summary*

H.R. 6331 prevents a 10 percent payment reduction for physicians in Medicare, enhances Medicare preventive and mental health benefits, improves and extends programs for low-income Medicare beneficiaries, and extends expiring provisions for rural and other providers. Key provisions of H.R. 6331 include: providing a 2 percent quality reporting bonus for doctors who report on quality measures through 2010; providing financial incentives to providers to encourage the use of electronic prescribing technology; extending and improving low-income assistance programs for Medicare beneficiaries whose income is below \$14,040; increasing the amount of assets that low-income beneficiaries can have and still qualify for financial help; and adding new preventive benefits to the Medicare program as well as reducing beneficiary out of pocket costs for mental health care.

H.R. 6331 will require Medicare Advantage plans to pay pharmacies promptly (within 14 days), and to update the prices they will reimburse for prescription medicines at least weekly. The bill also delays the new Medicaid payment rule which changes Medicaid's payment limits for pharmacies to be based on the Average Manufacturer Price (AMP). The rule would be delayed through September 2009. This legislation takes modest steps to reduce Medicare payments to private plans which are being paid more than 100 percent of the cost to treat a beneficiary in fee-for-service Medicare by phasing out the Indirect Medical Education (IME) double-payment, eliminating the stabilization fund for Medicare Advantage regional preferred provider organizations, and ensuring Private Fee-for-Service (PFFS) plans comply with quality requirements that other Medicare Advantage plans must meet.

The bill protects access to care in rural America by extending and building upon expiring provisions. H.R. 6331 will improve payments for sole community hospitals, critical access hospitals, and ambulances, as well as extend expiring provisions that preserve payment enhancements for rural physicians and hospitals that run clinical laboratories. Access to Medicare Advantage is retained by ensuring private-fee-for-service plans in rural areas can continue to operate if there are fewer than two network plan options.

H.R. 6331 makes a number of other modest changes to Medicare payments, including: protecting access to therapy services by extending the exceptions process to the limits on therapy visits for beneficiaries in nursing homes; and postponing the Durable Medical Equipment (DME) competitive bidding program and repealing the clinical laboratory competitive bidding program.

*Legislative History*

H.R. 6331 was introduced on June 20, 2008, by Representative Rangel. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 24, 2008, H.R. 6331 passed the House, as amended, under suspension of the rules by a rollcall vote: 355–59.

On July 9, 2008, the Senate passed H.R. 6331 without amendment by unanimous consent.

H.R. 6331 was presented to the President on July 10, 2008, and vetoed by the President on July 15, 2008.

On July 15, 2008, H.R. 6331 passed the House over veto by a rollcall vote: 383–41. That same day, H.R. 6331 passed the Senate over veto by a rollcall vote: 70–26.

H.R. 6331 became Public Law 110–275 on July 15, 2008.

PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND  
ADDICTION EQUITY ACT OF 2008

Public Law 110–343, Title V, Subtitle B

(H.R. 6983, H.R. 1424, S. 558)

*Summary*

This bill permanently reauthorizes and expands the Mental Health Parity Act of 1996 to provide for equity in the coverage of mental health and substance use disorders compared to medical and surgical disorders. The legislation ensures that group health plans do not charge higher co-payments, coinsurance, deductibles, and impose maximum out-of-pocket limits and lower day and visit limits on mental health and addiction care than for medical and surgical benefits. The Department of Health and Human Services, the Department of Labor, and the Internal Revenue Service may penalize health plans for discriminatory practices under the bill. The mental health parity requirements apply to group health plans with 51 or more employees, but do not apply to health coverage in the individual insurance market. If the requirements in this bill result in increased actual total costs of coverage that exceed 2 percent during the first plan year or 1 percent in subsequent years, the plan may choose to be exempt from the equity requirements for the following plan year. The bill would establish a federal floor but permits states to go further to protect their citizens. H.R. 6983 would not supersede any State law that provides consumer protections, benefits, rights, or remedies stronger than those in this bill. Plans will be required to make information about criteria used for medical necessity determinations and reasons for denials relating to mental health and addiction treatment available.

The Internal Revenue Service may impose a tax of \$100 per day per beneficiary on employers or insurers who do not comply with the equity requirements of this bill. The Department of Health and Human Services and Department of Labor can also enforce the provisions of this bill. Aggrieved individuals may bring a civil action

to obtain covered benefits. The bill requires GAO to analyze and report on the specific rates, patterns, and trends in coverage and exclusion of specific mental health and substance use disorder diagnoses by health plans and health insurance. H.R. 6983 is effective in the first health plan year that begins on or after January 1, 2009.

#### *Legislative History*

H.R. 6983 was introduced on September 22, 2008, by Representative Kennedy. It was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 23, 2008, H.R. 6983 passed the House, as amended, under suspension of the rules, by a rollcall vote: 376–47.

H.R. 6983 was received in the Senate on September 23, 2008.

For further action on H.R. 6983, see H.R. 1424, the “Emergency Economic Stabilization Act of 2008,” which became Public Law 110–343.

TO MAKE A TECHNICAL CORRECTION IN THE PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008

Public Law 110–460 (S. 3712)

#### *Summary*

This legislation amends subtitle B of title V of division C of Public Law 343 by striking “January 1, 2009” and inserting “January 1, 2010”.

#### *Legislative History*

On November 20, 2008, Senator Edward M. Kennedy introduced S. 3712. That same day, the Senate passed S. 3712 without amendment by unanimous consent.

On December 9, 2008, S. 3712 was referred to the House Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On December 10, 2008, the Committees on Energy and Commerce, Education and Labor, and Ways and Means were each discharged from further consideration of the bill. That same day, the House passed S. 3712 with no objection, clearing it for White House action.

On December 23, 2008, the President signed S. 3712 (Public Law 110–460).

## MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007

## Public Law 110–173 (S. 2499)

To amend titles XVIII, XIX, and XXI of the Social Security Act to extend provisions under the Medicare, Medicaid, and SCHIP programs, and for other purposes.

*Summary*

S. 2499 amends titles XVIII, XIX, and XXI of the Social Security Act to extend provisions under the Medicare, Medicaid, and SCHIP programs. Extended Medicare programs include: an incentive payment program for physician scarcity areas; the floor on work geographic adjustment; treatment of certain physician pathology services; the exceptions process for therapy caps; the payment rule for brachytherapy; reasonable costs payments for certain clinical diagnostic laboratory tests in rural areas; the authority of specialized Medicare Advantage plans for special needs individuals; access to Medicare reasonable cost contract plans; a provision that permits physicians in the armed services to engage in substitute billing arrangements for longer than 60 days when they are ordered to active duty; and provisions that have allowed certain hospitals to be eligible for wage index reclassification. S. 2499 will remove \$1.5 billion from the stabilization fund for Medicare Advantage regional preferred provider organizations in 2012. It will also require the submission of data by group health plans and liability insurers to the Secretary of Health and Human Services that is necessary to appropriately identify individuals for whom Medicare is the secondary payor.

CMS will be required to adjust its Average Sales Price (ASP) calculation to use volume-weighted ASPs based on actual sales volume. Some other improvements to the Medicare program include: establishing an appropriate reimbursement rate for generic inhalation drugs; reimbursing certain diabetes laboratory tests that are approved for home use at the same rate as other glycosylated hemoglobin tests; providing regulatory relief to ensure continued access to current long-term care hospital services; imposing a limited moratorium on the development of new long-term care facilities; requiring the Secretary to conduct a study on long-term care hospital facility and patient criteria; requiring the Secretary to study beneficiary access to inpatient rehabilitation services and care; and permanently freezing the inpatient rehabilitation services compliance threshold at 60%. S. 2499 will also provide \$15 million to State Health Insurance Assistance Programs and \$5 million for Area Agencies on Aging and Aging Disability Resource Centers for beneficiary outreach and assistance.

Title II of S. 2499 includes Medicaid and SCHIP provisions. Extended programs in this section include: the qualifying individual (QI) program; transitional medical assistance (TMA); abstinence education programs; Medicaid disproportionate share hospitals (DSH); and SCHIP funding through March 31, 2009. This legislation would also impose a six-month delay on implementation of proposed administrative regulations relating to school-based services and rehabilitation services. An additional \$10 million would be pro-

vided to improve data collection on the uninsured by the Census Bureau.

Title III of this legislation would extend the Special Diabetes Program to fund type 1 diabetes research and type 2 treatment and prevention programs for Native Americans and Alaska Natives. This title would also clarify the Medicare Payment Advisory Commission's status as an agency of Congress.

#### *Legislative History*

S. 2499 was introduced in the Senate on December 18, 2007, by Senator Baucus. The bill was read twice, considered, read the third time, and passed without amendment by unanimous consent.

On December 19, 2007, S. 2499 passed the House under suspension of the rules and by a rollcall vote: 411–3.

The bill was presented to the President on December 27, 2007, and signed by the President on December 29, 2007 (Public Law 110–173).

#### QI PROGRAM SUPPLEMENTAL FUNDING ACT OF 2008

Public Law 110–379 (S. 3560, H.R. 7077, S. 3549)

To amend title XIX of the Social Security Act to provide additional funds for the qualifying individual (QI) program, and for other purposes.

#### *Summary*

S. 3560 amends title XIX (Medicaid) of the Social Security Act, as amended by the Medicare Improvements for Patients and Providers Act of 2008, to provide supplemental funding for the qualifying individual (QI) program. This legislation requires a state to have in operation an eligibility determination system which provides for data matching through the Public Assistance Reporting Information System (PARIS), including matching with medical assistance programs operated by other states. It also amends the Federal Food, Drug, and Cosmetic Act to make sponsors of certain antibiotic drugs eligible for a three-year or a five-year market exclusivity if a marketing application is submitted for an antibiotic drug that: (1) was approved by the Secretary of Health and Human Services before November 21, 1997; or (2) was the subject of one or more applications received by the Secretary before November 21, 1997, none of which was approved. The bill would authorize the use of Medicaid integrity program funds for transportation and travel expenses for attendees at education, training, or consultative activities, and it would increase FY2014 funding for the Medicare Improvement Fund.

#### *Legislative History*

S. 3560 was introduced on September 24, 2008, by Senator Baucus and referred to the Senate Committee on Finance.

On September 25, 2008, the Senate Finance Committee was discharged from further consideration of S. 3560 by unanimous consent. The Senate then passed S. 3560 without amendment by unanimous consent.

On September 25, 2008, S. 3560 was received in the House and referred to the Committee on Energy and Commerce. On September 27, 2008, the bill was re-referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, by unanimous consent.

On September 27, 2008, S. 3560 passed the House under suspension of the rules by a voice vote, two-thirds having voted in favor. This action cleared the measure for the White House.

The bill was presented to the President on September 29, 2008, and signed by the President on October 8, 2008 (Public Law 110–379).

#### MEDICARE PRESCRIPTION DRUG PRICE NEGOTIATION ACT OF 2007

(H.R. 4, S. 3)

To amend Part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate lower prescription drug prices for covered Part D drugs on behalf of Medicare beneficiaries.

#### *Summary*

H.R. 4 would require the Secretary of Health and Human Services to negotiate with pharmaceutical manufacturers the prices that may be charged to prescription drug plan sponsors and Medicare Advantage organizations for covered part D drugs for part D eligible individuals enrolled under a prescription drug plan or under a Medicare Advantage prescription drug (MA–PD) plan.

#### *Legislative History*

H.R. 4 was introduced in the House on January 5, 2007, by Representative Dingell. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means.

On January 12, 2007, H.R. 4 passed the House by a rollcall vote: 255–170.

The bill was received in the Senate and referred to the Senate Committee on Finance.

No further action was taken on H.R. 4 in the 110th Congress.

#### BREAST CANCER PATIENT PROTECTION ACT OF 2008

(H.R. 758, H.R. 119, S. 459)

To require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

#### *Summary*

H.R. 758 requires health insurers to cover minimum lengths of stay for patients undergoing procedures to treat and diagnose breast cancer and also provides for secondary consultations. This bill would prevent insurers from forcing women to leave the hospital before it is medically safe to do so and would help assure that women have access to the most medically appropriate treatment.

Insurers would be required to pay for hospital stays of at least 48 hours in the case of mastectomies and lumpectomies and 24 hours in the case of lymph node dissection for the treatment of breast cancer. Insurers would also be required to provide for secondary consultations in the event of either a positive or a negative test to confirm or refute that initial diagnosis. To guarantee that patients understand their rights under this bill, it would also require that insurers provide notice of these requirements to patients. The bill, as reported, would also create an independent review process for consumers in the individual health insurance market in the event of non-renewal, discontinuation, or rescission of a health insurance policy. Insurers would be required to continue coverage under such policy until completion of the independent review.

#### *Legislative History*

H. R. 758 was introduced in the House on January 31, 2007, by Representative DeLauro. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, and the Committee on Education and Labor.

On February 2, 2007, H.R. 758 was referred to the Subcommittee on Health. On May 21, 2008, the Subcommittee on Health held a hearing on H.R. 758.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 758 was ordered favorably reported, amended, by a voice vote.

On September 23, 2008, the Committee on Energy and Commerce reported H.R. 758 to the House, amended (H. Rept. 110–868, Part 1). The Committee on Ways and Means and the Committee on Education and Labor were each discharged from further consideration of H.R. 758.

On September 25, 2008, H.R. 758 passed the House, as amended, under suspension of the rules, by a rollcall vote: 421–2.

The bill was received in the Senate on September 25, 2008, but no further action was taken in the 110th Congress.

CHILDREN’S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF  
2007

(H.R. 976, H.R. 3162, H.R. 3963, S. 1893)

To amend title XXI of the Social Security Act to extend and improve the Children’s Health Insurance Program, and for other purposes.

#### *Summary*

H.R. 976 reauthorizes the State Children’s Health Insurance Program. This legislation invests an additional \$35 billion over five years to strengthen SCHIP’s financing, increases the number of low-income children with health insurance coverage, and improves the quality of healthcare children receive. This legislation will provide health coverage to millions of low-income children who are currently uninsured. Quality dental coverage will be provided to all enrolled children as well. H.R. 976 will ensure that states offer mental health services on par with medical and surgical benefits



covered under SCHIP. Medically necessary benefits for low-income children will also be protected.

H.R. 976 will provide coverage to pregnant women as a new state option. It also preserves the option to cover them through a state waiver or through regulation. States would be prohibited from granting any new waivers to cover parents in the SCHIP program, but States that have already received waivers to cover low-income parents will be allowed to transition parents into a separate block grant. The federal match for services to parents covered through SCHIP will be reduced. This legislation retains the current law prohibition of waivers to allow coverage of childless adults. Currently covered childless adults will transition off SCHIP. For States that have received CHIP waivers to cover childless adults, the agreement terminates those waivers after a one-year period, provides temporary Medicaid funding for already-enrolled adults, and allows States to apply for a Medicaid waiver for coverage.

Under the financing structure, States will receive state-based allotments that are responsive to state demographic and national spending trends and allow additional up-front funding for States planning improvements. States that face a funding shortfall and meet enrollment goals will receive an adjustment payment to ensure that no child who is eligible for Medicaid or SCHIP is denied coverage or placed on a waiting list. The formula also sets in place new overall caps on federal funding to ensure the program's expenditures do not exceed the amounts authorized.

H.R. 976 replaces the flawed CMS August 17th letter to states. In place of the CMS letter, this legislation gives states time and assistance in developing and implementing best practices to address crowd out. The agreement also puts the lowest income children first in line by phasing in a new requirement for coverage of low-income children as a condition of receiving SCHIP funding for coverage of children above 300 percent of the poverty level. The bill also provides \$100 million in grants for new outreach activities to States, local governments, schools, community-based organizations, safety-net providers, and others. A new quality child health initiative is established to develop and implement quality measures and improve state reporting of quality data. H.R. 976 will expand on current premium assistance options for states, as the bill allows States to offer a premium assistance subsidy for qualified, cost-effective employer-sponsored coverage to children eligible for SCHIP. It also changes the federal rules governing employer-sponsored insurance to make it easier for States and employers to offer premium assistance programs.

#### *Legislative History*

H.R. 976 was introduced in the House on February 9, 2007, by Representative Rangel. As passed in the House, H.R. 976 was the Small Business Tax Relief Act of 2007.

During Senate consideration of H.R. 976, text similar to S. 1893, the "Children's Health Insurance Program Reauthorization Act of 2007," was substituted in H.R. 976.

On August 2, 2007, H.R. 976 passed the Senate, amended, by a rollcall vote: 68–31.

On September 25, 2007, the House agreed to the Senate amendment to H.R. 976, with amendments, by a rollcall vote: 265–159, and 1 present.

On September 27, 2007, the Senate agreed to the House amendments to the Senate amendments by a rollcall vote: 67–29, clearing the measure for the White House.

H.R. 976 was presented to the President on October 2, 2007, and vetoed on October 3, 2007.

The veto was sustained in the House on October 18, 2007, when the House failed to override the veto of H.R. 976 by a rollcall vote: 273–156, two-thirds failing to vote in the affirmative.

#### PROTECTING CHILDREN'S HEALTH IN SCHOOLS ACT OF 2007

(H.R. 1017, S. 578)

To amend title XIX of the Social Security Act to improve requirements under the Medicaid Program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

#### *Summary*

H.R. 1017 ensures access to school-based health care for children, including children with special needs through Medicaid. This legislation includes related administrative and transportation costs and health care provided through Medicaid managed care organizations. H.R. 1017 also directs the Secretary of Health and Human Services and the Secretary of Education, acting jointly, to develop and implement a uniform methodology for claims under this Act.

#### *Legislative History*

H.R. 1017 was introduced on February 13, 2007, by Representative Dingell and referred to the Committee on Energy and Commerce.

No further action was taken on H.R. 1017 in the 110th Congress.

#### HIPAA RECREATIONAL INJURY TECHNICAL CORRECTION ACT

(H.R. 1076, S. 616)

To promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

#### *Summary*

H.R. 1076 amends the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act, and the Internal Revenue Code to require any limitations and restrictions on benefits be explicit and clear, require that they be disclosed to the sponsor of the group health plan in advance of the point of sale to the group health plan, and require that the issuer of the health insurance coverage make available to participants and beneficiaries in an easily understandable manner a description of the limitations and restrictions upon their enrollment.

*Legislative History*

On February 15, 2007, H.R. 1076 was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

For further action on H.R. 1076 in the 110th Congress, see H.R. 6908.

## EMERGENCY ECONOMIC STABILIZATION ACT OF 2007

(H.R. 1424, S. 558)

To amend section 712 of the Employee Retirement Income Security Act of 1974, section 2705 of the Public Health Service Act, and section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans as compared to coverage of physical conditions.

*Summary*

As first introduced in the House, H.R. 1424 was the Paul Wellstone Mental Health and Addiction Equity Act of 2007. As introduced in the House, this bill permanently reauthorizes and expands the Mental Health Parity Act of 1996 to provide for equity in the coverage of mental health and substance use disorders compared to medical and surgical disorders. The legislation ensures that group health plans do not charge higher co-payments, coinsurance, deductibles, and impose maximum out-of-pocket limits and lower day and visit limits on mental health and addiction care than for medical and surgical benefits. The Department of Health and Human Services, the Department of Labor, and the Internal Revenue Service may penalize health plans for discriminatory practices under the bill and individuals may bring a private right of action to receive covered benefits.

This bill excludes employers with 50 or less employees from the requirements, does not constrain a plan's ability to require medical necessity or apply other types of medical management on the benefits, and permits employers and plans to be exempted from the parity requirements if an actuary finds that claims costs would be increased by 2 percent or more as a result of implementing parity in the first year or 1 percent or more in subsequent years. This bill does apply to the individual market. Enforcement of the bill's provisions is through the Internal Revenue Code, where an employer can be penalized for violations of the law's requirements.

*Legislative History*

H.R. 1424 was introduced in the House on March 9, 2007, by Representative Kennedy. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, and the Committee on Ways and Means.

On March 12, 2007, H.R. 1424 was referred to the Subcommittee on Health. On June 15, 2007, the Subcommittee on Health held a hearing on H.R. 1424.

On October 10, 2007, the Subcommittee on Health met in an open markup session and H.R. 1424 was forwarded to the full Committee, amended, by a voice vote.

On October 15, 2007, the Committee on Education and Labor reported H.R. 1424 to the House, amended (H. Rept. 110–374, Part 1).

On October 15, 2007, the Committee on Ways and Means reported H.R. 1424 to the House, amended (H. Rept. 110–374, Part 2).

On October 16, 2007, the Committee on Energy and Commerce met in an open markup session and H.R. 1424 was ordered favorably reported, as amended, by a rollcall vote: 32–13.

On March 4, 2008, the Committee on Energy and Commerce reported H.R. 1424 to the House, amended (H. Rept. 110–374, Part 3).

On March 5, 2008, H.R. 1424 passed the House, amended, by a rollcall vote: 268–148.

On March 6, 2008, H.R. 1424 was received in the Senate and placed on the Senate Legislative Calendar under General Orders.

The Senate amended H.R. 1424 and used this bill as a vehicle for the Emergency Economic Stabilization Act of 2008. For further action on H.R. 1424, see H.R. 6983, the “Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008” would be included in the Emergency Economic Stabilization Act of 2008.

#### CHILDREN’S HEALTH FIRST ACT

(H.R. 1535, S. 895)

To amend titles XIX and XXI of the Social Security Act to ensure that every child in the United States has access to affordable, quality health insurance coverage, and for other purposes.

#### *Summary*

H.R. 1535 amends title XXI (State Children’s Health Insurance Program or SCHIP) of the Social Security Act to grant States the option to expand coverage of children whose family income is any percentage up to 400 percent of the poverty-line. The bill authorizes States to offer purchase of coverage for uncovered children under SCHIP who are not otherwise eligible for assistance under SCHIP or Medicaid. It also provides subsidies for employment-based coverage of children eligible for SCHIP or Medicaid and requires coverage of early and periodic screening, diagnostic, and treatment services, including dental services, federally-qualified health services, and rural health clinic services.

H.R. 1535 establishes the Medicaid-SCHIP Payment Advisory Commission. The bill also provides for an increase in the federal medical assistance percentage (FMAP) for medical assistance for children in States that expand coverage of children. State options are outlined for additional coverage expansions, including older children under Medicaid, targeted low-income pregnant women under SCHIP, and legal immigrants under both programs. New base SCHIP allotments are established that are responsive to increases in health care costs and enrollment expansions. H.R. 1535

provides for a two-year initial availability of SCHIP allotments, and for redistribution of unused allotments to address State funding shortfalls. It prescribes a special rule for school-based outreach and enrollment activities. States are given the option to require certain individuals to present satisfactory documentary evidence of citizenship or nationality for Medicaid eligibility. States are also given the option to provide for “express lane” and simplified determinations of a child’s financial eligibility for Medicaid or SCHIP.

The Secretary of Health and Human Services is directed to develop and disseminate a model process for the coordination of Medicaid and SCHIP enrollment and coverage of children who frequently change their state of residency or are temporarily outside such state. State Medicaid plans are required to apply outreach procedures to all pregnant women and children.

#### *Legislative History*

H.R. 1535 was introduced in the House on March 15, 2007, by Representative Dingell and referred to the Committee on Energy and Commerce. No further action was taken on H.R. 1535 in the 110th Congress.

#### CHILDREN’S DENTAL HEALTH IMPROVEMENT ACT OF 2007

(H.R. 1781, S. 739)

To provide disadvantaged children with access to primary dental care services.

#### *Summary*

H.R. 1781 amends title V (Maternal and Child Health Services) of the Social Security Act to: (1) direct the Secretary of Health and Human Services to award grants to states to improve dental services to children enrolled in Medicaid or the State Children’s Health Insurance Program (SCHIP); (2) include dental services as a basic service under SCHIP; and (3) allow states to provide wrap-around coverage under SCHIP for dental services to privately-insured children. The bill also amends title XVIII (Medicare) of the Social Security Act to revise Graduate Medical Education (GME) payments for dental residency programs. The Public Health Service Act is amended to require the Secretary, acting through the Health Resources and Services Administration (HRSA), to establish a grant program to expand the availability of primary dental care services in dental health professional shortage areas or medically underserved areas.

The Secretary of HHS would be required to establish demonstration projects to increase access to dental services for children in underserved areas. The Secretary would also be directed to establish: (1) an oral health initiative to reduce disparities in oral health; and (2) Chief Dental Officers for Medicaid and SCHIP, HRSA, and the Centers for Disease Control and Prevention (CDC). H.R. 1781 requires the Director of the CDC to collect data on dental, craniofacial, and oral health and requires the Secretary of HHS to identify populations at high risk for early childhood caries (tooth decay) and to develop prevention programs. The eligibility requirements are revised for the school-based dental sealant program to

include Indian tribes. The bill also directs the Secretary, acting through the Director of the CDC, to award grants to states and Indian tribes to improve their basic capacity to improve the oral health of children and their families.

*Legislative History*

H.R. 1781 was introduced in the House on March 29, 2007, by Representative Dingell. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means.

No further action was taken on H.R. 1781 in the 110th Congress.

MEDICARE FOR ALL ACT

(H.R. 2034, S. 1218)

To provide quality, affordable healthcare for all Americans.

*Summary*

H.R. 2034 amends the Social Security Act to provide that all Americans will be entitled to Medicare benefits. Each enrollee can maintain the coverage they have today or choose to enroll in Medicare. Enrollees are free to choose their own doctor and private health plan and benefits are similar to or no less than the health benefits coverage under the FEHBP (Federal Employees Health Benefits Program). The bill also establishes the Medicare for All Trust Fund. H.R. 2034 amends the Internal Revenue Code to impose: (1) on the income of every enrolled individual a tax equal to 1.7% of wages received in excess of \$25,000; (2) on every employer an excise tax equal to 7% of the wages paid to each enrolled employee; and (3) on the self-employment income of every enrolled individual, a tax equal to the applicable percentage of the self-employment income for such taxable year in excess of \$25,000.

*Legislative History*

H.R. 2034 was introduced in the House on April 25, 2007, by Representative Dingell. It was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, and the Committee on Oversight and Government Reform.

No further action was taken on H.R. 2034 in the 110th Congress.

CHILDREN'S HEALTH AND MEDICARE PROTECTION ACT OF 2007

(H.R. 3162, H.R. 976, H.R. 3963, S. 1893)

To amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and CHIP programs, and for other purposes.

*Summary*

This bill reauthorizes the State Children's Health Insurance Program (SCHIP) that was created as part of the Balanced Budget Act of 1997. This legislation invests an additional \$35 billion over five years to ensure that States have predictable funding streams for the SCHIP program, increase the number of low-income children

with health insurance coverage, and improve the quality of health care children receive. States that adopt a menu of outreach “best practices” and successfully reach previously-uninsured children would be eligible for a “performance bonus.” The menu of “best practices” includes enrollment in a plan for a full year, providing children care while their applications are being completed if it is presumed that the child will be found eligible, less burdensome renewals, flexibility in determination of assets, elimination of in-person interviews, express lane service, and use of a joint application of Medicaid and SCHIP. In order to be eligible for the “performance bonus”, States must implement five out of seven of these best practices. States would be allowed to cover pregnant women and older children, as well as legal immigrant children and legal immigrant pregnant women, who otherwise meet the requirements for coverage under CHIP.

H.R. 3162 would provide children with a benefits package that includes coverage of dental care and mental health services. States would have the flexibility to provide children’s coverage through whatever delivery arrangement works best, whether through an HMO, PPO, or other arrangement. To further ensure that coverage meets children’s needs, the Secretary of Health and Human Services (HHS) could approve “alternate” benefits packages if those packages met or exceeded existing benchmark coverage.

This legislation also focuses on improving quality. The Secretary of HHS would be required to develop a pediatric health quality program that evaluates and improves the quality of pediatric care on clinical and programmatic levels. The Secretary would work with pediatric providers, children’s advocates, and other experts on children’s health care to develop child-centered quality measures. A new, independent Commission, the Children’s Access, Payment and Equality Commission (CAPE), would advise Congress on important issues regarding children’s health care. This Commission would be charged with monitoring access to care and services, and the adequacy of provider payments under both SCHIP and Medicaid. The Commission would also examine issues of health disparities and underserved areas.

Community health centers (CHCs) and rural health centers (RHCs) are important as the primary source of care for millions of children. Children covered under SCHIP would have guaranteed access, just like children covered under Medicaid, and CHCs and RHCs would receive adequate payments. The current ability of States to cover services in school clinics would be clarified, and CAPE would specifically monitor the status of safety net providers.

H.R. 3162 also invests in improvements for Medicare beneficiaries. The bill provides Medicare with the authority to use the recommendations of the U.S. Preventive Health Services Task Force to add new preventive health benefits without Congressional approval. It also waives cost sharing for preventive benefits and provides for mental health parity. The CHAMP Act expands and improves the Low Income Subsidy (LIS) program for drugs and the Medicare Savings Programs (MSP), which help ensure affordable health care for seniors and people with disabilities with lower incomes. It does this by expanding income eligibility, improving assets tests, enhancing outreach and education for the LIS and MSP,

and eliminating the Part D late enrollment penalty for LIS eligible individuals. In an effort to reduce health disparities, H.R. 3162 would collect data necessary to better track and address racial and ethnic disparities in the Medicare program. Consumer protections would be strengthened as well under this legislation. Beneficiaries would be allowed to change drug plans if their drug plan formulary changes during the year, Part D plans would be required to cover all drugs in six important therapeutic classes of drugs, and the prohibition on coverage of benzodiazepines would be eliminated.

The CHAMP Act would stabilize physician reimbursement by eliminating the impending 2008 and 2009 fee cuts and putting in place a positive 0.5 percent update in both years. Parameters are established for fixing the physician fee system by prioritizing primary care. The bill also initiates a nationwide demonstration project to test the practice of providing a medical home for patients in which their personal physician is paid to coordinate their care.

The CHAMP Act includes provisions relating to Medicare Advantage, such as a payment adjustment to plans to bring closer in line with fee-for-service payments in Medicare, enrollment limitations, and a repeal of the regional PPO stabilization fund created in the MMA to provide incentive payments to certain types of private plans. This legislation also protects beneficiaries by developing a Federal/State system to regulate private plan marketing and other activities and providing more information about plan spending on health care services. Private plans would be prohibited from charging higher cost-sharing than FFS Medicare. All private plans, including private fee-for-service plans, would be required to report quality data to CMS in order to measure the quality of care. Also, dual Medicare-Medicaid special needs plans (SNPs) and Institutional SNPs would be reauthorized for three years with new requirements to assure that they are enrolling their target populations.

In terms of rural health improvements, H.R. 3162 would preserve payment enhancements for rural Medicare fee-for-service providers. Taking into account recommendations from the non-partisan Medicare Payment Advisory Commission, the bill refines payments for a variety of institutional providers covered under Medicare Part A including skilled nursing facilities, rehabilitation facilities, long-term care hospitals, cancer hospitals and rural and small urban hospitals. Part B improvements include: continuing the therapy cap exceptions process and planning for an improved payment system; improving coverage for speech-language pathologists, nurse midwives, marriage and family therapists, and mental health counselors; and assuring access to clinical social workers for beneficiaries in nursing homes. This legislation would end the ability of physicians to refer patients to hospitals in which they have ownership. The bill would also reduce the rental period for oxygen equipment and eliminate the first month purchase of wheelchairs. The ESRD payment system is modernized, quality programs are put in place, and patient-education services for pre-dialysis beneficiaries are provided.

Other Medicare provisions include establishing a comparative effectiveness program to provide information that doctors and patients need to choose the best treatments, leading to better health



outcomes and value nationwide. The Medicare agency is required to design a program to require adoption of an interoperable open source health information technology system for all Medicare providers. The CHAMP Act would also eliminate a provision from the Medicare Prescription Drug Improvement and Modernization Act designed to reduce Medicare spending.

Medicaid provisions include: maintaining access to school-based services and rehabilitation services for children with severe disabilities; extending for two years the Transitional Medical Assistance program (TMA); providing States a new option to offer family planning services to women; protecting beneficiaries who currently receive adult day health care from having that care terminated; increasing Medicaid resources for Puerto Rico and the U.S. Territories; and increasing the rebate provided from drug manufacturers to the Medicaid program by 5 percent.

As a source of revenue, a new \$0.45 Federal tax would be levied on tobacco products and fuel excise taxes would be exempt for ambulance fuel.

#### *Legislative History*

H.R. 3162 was introduced on July 24, 2007, by Representative Dingell. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 24, 2007, H.R. 3162 was referred to the Subcommittee on Health.

On July 26 and July 27, 2007, the Committee on Energy and Commerce met in open markup sessions to consider H.R. 3162.

On August 1, 2007, the Committee on Ways and Means reported H.R. 3162 to the House, amended (H. Rept. 110-284, Part 1).

On August 1, 2007, H.R. 3162 was considered in the House according to the provisions of H. Res. 594. That same day, H.R. 3162 passed the House, amended, by a rollcall vote: 225-204.

On September 4, 2007, H.R. 3162 was received in the Senate and placed on the Senate Legislative Calendar under General Orders.

For further action on H.R. 3162, see H.R. 976, which was vetoed by the President on October 3, 2007.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF  
2007

(H.R. 3963, H.R. 976)

#### *Summary*

H.R. 3963 reauthorizes the Children's Health Insurance Program, investing an additional \$35 billion over five years to strengthen SCHIP's financing, increase health insurance coverage for low-income children, and improve the quality of health care children receive. An additional 100,000 of the lowest-income children would be covered under this proposal compared to H.R. 976. Also, the effective date of the moratorium on school-based care for the disabled and rehabilitation services are extended from May 24, 2008 to January 1, 2010.

This legislation provides incentives to find and enroll uninsured children and permits States to only receive Federal funding for children covered in CHIP with family incomes up to \$51,510 (300% of the Federal poverty level for a family of 3). States would receive performance bonus payments for finding and enrolling the lowest income uninsured children. The bill further minimizes the substitution of employer-sponsored coverage with CHIP coverage. All States are required to submit plans and implement recommended best practices for helping kids already covered stay in employer-sponsored coverage and States are encouraged to use CHIP dollars to subsidize employer-sponsored health insurance for children as an option.

H.R. 3963 will ensure that SCHIP money is used to cover children. Coverage of childless adults is phased out after one year. This legislation will clarify and strengthen SCHIP as a program for U.S. Citizens. It will also clarify the role of the Social Security Administration (SSA) in verifying citizenship for purposes of Medicaid and CHIP eligibility. SSA will verify the name, social security number, and place of birth of enrollees and applicants. This will assist States in identifying potential non-citizens and permit States to follow-up. States will not receive Federal funding for payments made to non-citizens.

#### *Legislative History*

H.R. 3963 was introduced on October 24, 2007, by Representative Dingell. It was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Oversight and Government Reform, House Administration, and Education and Labor for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On October 25, 2007, H.R. 3963 passed the House by a rollcall vote: 265–142. On November 1, 2007, the bill passed the Senate without amendment by a rollcall vote: 64–30.

It was presented to the President on November 30, 2007, and vetoed by the President on November 12, 2007.

On January 23, 2008, the House failed to override the President's veto by a rollcall vote: 260–152, two-thirds failing to vote in the affirmative.

#### MEDICAID FEDERAL MEDICAL ASSISTANCE PERCENTAGE

(H.R. 5268, S. 2620)

To provide for a temporary increase of the Federal medical assistance percentage under the Medicaid Program, and for other purposes.

#### *Summary*

Section one of H.R. 5268 provides a temporary increase of the Federal medical assistance percentage (FMAP) under the Medicaid program by 2.95 percentage points for 5 quarters, the last 2 quarters of fiscal year 2008 and the first 3 quarters of fiscal year 2009 (April 1, 2008, through June 30, 2009). This legislation will provide an analogous temporary increase of the Medicaid FMAP by 5.90

percent for the territories. States are protected against a decline in their Medicaid FMAP for the last 2 quarters of fiscal year 2008 and the first 3 quarters of fiscal year 2009 (April 1, 2008, through June 30, 2009). States are also required to maintain their Medicaid eligibility at current levels in order to receive the 2.95 percentage point temporary increase, and States are required to adjust payments by localities and counties to the State share to account for additional Federal funding.

Section two of H.R. 5268 exempts extraordinary employer pension contributions from the calculation of personal income for the purposes of establishing a State's Federal medical assistance percentage, and no State shall have its Medicaid FMAP reduced as a result of this section.

#### *Legislative History*

H.R. 5268 was introduced in the House on February 7, 2008, by Representative Pallone and referred to the Committee on Energy and Commerce. No further action was taken on H.R. 5268 in the 110th Congress.

An FMAP provision similar to H.R. 5268 was placed into H.R. 7110, the "Job Creation and Unemployment Relief Act of 2008."

#### PROTECTING CHILDREN'S HEALTH COVERAGE ACT OF 2008

(H.R. 5998)

To nullify any effectiveness of the August 17, 2007, State health official letter issued by the Centers for Medicare & Medicaid Services.

#### *Summary*

On August 17, 2008, the Bush Administration issued a letter to State Medicaid and SCHIP directors outlining new guidance to "ensure that extension of eligibility to children at these higher effective income levels [above 250 percent of the federal poverty level or \$44,000 for a family of three] do not interfere with the effective and efficient provision of child health assistance coordinated with other sources of health benefits coverage to the core SCHIP population of uninsured targeted low income children." (CMS, Guidance by Center for Medicaid State Operations SHO #07-001, August 17, 2007). This letter, commonly referred to as the "August 17th directive," requires States to meet certain conditions in order to cover children in families with annual incomes above \$44,000 for a family of three (250 percent of the Federal poverty level for a family of three). H.R. 5998 would nullify the August 17th directive and subsequent guidance based on that letter. It would also ensure that States that had planned to expand coverage and whose applications were denied or scaled back as a result of the August 17th directive, could now obtain a new, expedited determination on their initiative from CMS within 30 days of the enactment of the Act.

#### *Legislative History*

H.R. 5998 was introduced on May 5, 2008, and referred to the Committee on Energy and Commerce.

No further action on H.R. 5998 was taken in the 110th Congress.

PROTECTING RECORDS, OPTIMIZING TREATMENT, AND EASING COMMUNICATION THROUGH HEALTHCARE TECHNOLOGY ACT OF 2008  
PRO(TECH)T ACT OF 2008

(H.R. 6357)

To amend the Public Health Service Act to promote the adoption of health information technology, and for other purposes.

*Summary*

H.R. 6357 amends the Public Health Service Act (PHSA) to promote the adoption of health information technology. This legislation would establish the Office of the National Coordinator for Health Information Technology (ONCHIT). The National Coordinator would be responsible for a number of duties including the development standards that would allow for the electronic exchange and use of health information. The PHSA would be amended to authorize the National Coordinator to award competitive grants for: (1) the purchase of electronic medical records; and (2) the implementation of regional or local health information plans.

H.R. 6357 would establish an HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure that is private and secure. An HIT Standards Committee would be established as well. This Committee would be responsible for making recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information.

The Secretary of Health and Human Services would be given the authority to award grants for demonstration projects to develop academic curricula integrating qualified health information technology in the clinical education of health professionals. The Director of the National Institute for Standards and Technology would be required to: (1) test standards and specifications under this Act in order to assure their efficient implementation and use; and (2) assist institutions of higher education in establishing multidisciplinary Centers for Health Care Information Enterprise Integration. H.R. 6357 also directs the National High-Performance Computing Program to coordinate federal research and development programs related to the development and deployment of health information technology.

This legislation would also improve and expand current federal privacy protections. Among these requires, the bill would require notification of individuals whose unencrypted protected health information has been accessed or acquired as a result of a breach. It would require that all entities that work with providers and insurers in performing functions for them meet all federal privacy laws. The bill requires providers to gain consent from an individual before their information is disclosed to others for performing healthcare operations.

*Legislative History*

H.R. 6357 was introduced in the House on June 24, 2008, by Representative Dingell. It was referred to the Committee on Energy and Commerce, and in addition to the Committees on Science

and Technology, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 24, 2008, H.R. 6357 was referred to the Subcommittee on Health.

On June 25, 2008, the Subcommittee on Health met in an open markup session and forwarded H.R. 6357 to the full Committee by a voice vote.

On July 27, 2008, the full Committee met in an open markup session and H.R. 6357 was ordered favorably reported, amended, by a voice vote.

On September 11, 2008, the Committee on Energy and Commerce reported H.R. 6357 to the House, amended (H. Rept. 110–837, Part 1). That same day, the Committee on Science and Technology was discharged from further consideration of the measure.

On October 3, 2008, the Committee on Ways and Means was granted an extension for further consideration ending not later than January 3, 2009.

No further action was taken on H.R. 6357 in the 110th Congress.

#### HEALTH INSURANCE RESTRICTIONS AND LIMITATIONS CLARIFICATION ACT OF 2008

(H.R. 6908, H.R. 1076)

To require that limitations and restrictions on coverage under group health plans be timely disclosed to group health plan sponsors and timely communicated to participants and beneficiaries under such plans in a form that is easily understandable.

#### *Summary*

On February 15, 2007, Congressman Michael Burgess (R–TX) and Congressman Bart Stupak (D–MI) introduced H.R. 1076, the “HIPAA Recreational Injury Technical Correction Act,” which had 122 cosponsors. Congressman Burgess and Stupak subsequently introduced related legislation, H.R. 6908, the “Health Insurance Restrictions and Limitations Clarification Act of 2008,” which would require any limitations and restrictions on benefits be explicit and clear; that they be disclosed to the sponsor of the group health plan in advance of the point of sale to the group health plan; and that the issuer of the health insurance coverage make available to participants and beneficiaries in an easily understandable manner a description of the limitations and restrictions upon their enrollment.

#### *Legislative History*

H.R. 6908 was introduced in the House on September 16, 2008, by Representative Burgess. It was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 17, 2008, the Committee on Energy and Commerce met in an open markup session and H.R. 6908 was ordered favorably reported by a voice vote.

On September 23, 2008, the Committee on Energy and Commerce reported H.R. 6908 to the House (H. Rept. 110-870, Part 1). The Committee on Ways and Means and the Committee on Education and Labor were each discharged from further consideration of the measure.

On September 23, 2008, H.R. 6908 passed the House, as amended, under suspension of the rules by a voice vote, two-thirds having voted in favor.

On September 25, 2008, the bill was received in the Senate, but no further action was taken in the 110th Congress.

#### HEALTH FINANCE

##### OVERSIGHT ACTIVITIES

###### COVERING THE UNINSURED THROUGH THE EYES OF A CHILD (DAY 1)

On February 14, 2007, the Subcommittee on Health held the first of two oversight hearings that provided a look at the problem of uninsured children in the United States. This hearing provided an overview of the characteristics of uninsured children, where are they located, whether they have access to affordable insurance, and the benefits insurance offers for improvement in health outcomes. The subcommittee received testimony from the Congressional Research Service, an associate professor from the Department of Health Policy at the George Washington School of Public Health and Health Services, a senior policy analyst from the Center for Health Policy Studies at the Heritage Foundation, and several community leaders.

###### COVERING THE UNINSURED THROUGH THE EYES OF A CHILD (DAY 2)

On March 1, 2007, the Subcommittee on Health held the second of two oversight hearings that provided a look at the problem of uninsured children in the United States. This hearing focused specifically on the State Children's Health Insurance Program (SCHIP) and improvements that Congress should consider when the program is reauthorized this year. The subcommittee received testimony from the Director of Health Care at the Government Accountability Office, a New Jersey State Senator, the president of the American Academy of Pediatrics, the director of Florida's Children's Health Services, and the medical director of a children's hospital.

###### EXPLORING OPTIONS FOR IMPROVING THE MEDICARE PHYSICIAN PAYMENT SYSTEM

On March 6, 2007, the Subcommittee on Health held an oversight hearing to provide an overview of recommendations from the Medicare Payment Advisory Commission (MedPAC) related to physician payment under Medicare, challenges in ensuring adequacy of physician payments, and beneficiary concerns with respect to the physician payment system. The hearing included two panels of witnesses. On the first panel, the subcommittee received testimony

from the Chairman of MedPAC. On the second panel, the subcommittee heard from the Director of Health Care at the Government Accountability Office, a professor of medicine at Dartmouth University, and a Member of AARP.

INSURING BRIGHT FUTURES: INSURING ACCESS TO DENTAL CARE AND PROVIDING A HEALTHY START FOR CHILDREN

On March 27, 2007, the Subcommittee on Health held an oversight hearing to explore the importance of dental coverage for children and access to dental care in the State Children's Health Insurance Program (SCHIP) and Medicaid. The hearing also examined the importance of early health care interventions for children in ensuring children have an early, healthy start, including mental health coverage. The subcommittee hearing was prompted by the death of two children—a 12-year-old boy in Maryland and a six-year-old boy in Mississippi—who died as a result of delayed dental care. The subcommittee received testimony from two panels of witnesses. Witnesses included the Executive Director of the National Governor's Association, the President of the American Dental Association, the Dental Director of the State of Mississippi, and other children's health advocates.

MEDICARE PROGRAM EFFICIENCY AND INTEGRITY

On April 18, 2007, the Subcommittee on Health held an oversight hearing to explore different ways in which the Medicare program could operate more efficiently. The hearing also investigated issues related to fraud, waste, and abuse within the Medicare program. The subcommittee received testimony from the Medicare Payment Advisory Commission, the Centers on Medicare and Medicaid Services, the U.S. Department of Health and Human Services, and the Department of Justice.

LIVING WITHOUT HEALTH INSURANCE: WHY EVERY AMERICAN NEEDS COVERAGE

On April 25, 2007, the Subcommittee on Health held an oversight hearing to explore the current status of those who lack health insurance in the United States: who the uninsured are, what it means for individuals and families to be uninsured, and the impact on communities, employers, and the country as a whole to have a large population of uninsured persons. The subcommittee received testimony from former Senator Thomas A. Daschle, the International President of the American Federation of State, County, and Municipal Employees, the Secretary of Health from the State of Vermont, a representative from the Chamber of Commerce, and a number of other health care providers and advocates.

MEDICARE SAVINGS PROGRAMS AND LOW INCOME SUBSIDY: KEEPING MEDICARE'S PROMISE FOR SENIORS AND PEOPLE WITH DISABILITIES

On May 15, 2007, the Subcommittee on Health held an oversight hearing to review the two low-income assistance programs that provide assistance with Medicare premiums, deductibles, and cost-sharing for low-income Medicare beneficiaries: Medicare Savings Programs (MSP) and the Low Income Subsidy program (LIS). The

subcommittee received testimony from the Medicare Rights Center, the American Health Care Association, AARP, Health and Disability Advocates, a dual-eligible beneficiary, and the Social Security Administration's Regional Commissioner from the New York region.

HELPING FAMILIES WITH NEEDED CARE: MEDICAID'S CRITICAL ROLE  
FOR AMERICANS WITH DISABILITIES

On January 16, 2008, the Subcommittee on Health held an oversight hearing to explore Medicaid's coverage for people with disabilities, including children with disabilities, the frail elderly, those with physical disabilities, as well as persons with mental illness and intellectual impairments. The subcommittee received testimony from a number of advocates for the disability community.

COVERING UNINSURED KIDS: MISSED OPPORTUNITIES FOR MOVING  
FORWARD

On January 29, 2008, the Subcommittee on Health held an oversight hearing that examined the role that Medicaid and the Children's Health Insurance Program play in providing insurance coverage for children and how recent efforts may have improved or detracted from the ability of families to secure affordable coverage for their uninsured children. The subcommittee heard testimony from two panels of witnesses. The first panel included the Congressional Research Service, Georgetown University's Health Policy Institute, First Focus, the mother of an SCHIP beneficiary, and the Director of the Schroeder Center for Healthcare Policy at the College of William and Mary. The second panel consisted of the Center for Medicare and Medicaid Services, the Deputy Commissioner of the New Jersey Department of Human Services, and the President and CEO of the New Hampshire Healthy Kids Corporation.

COVERING UNINSURED KIDS: REVERSING PROGRESS ALREADY MADE

On February 26, 2008, the Subcommittee on Health held an oversight hearing that explored the effect of the August 17th directive issued by the Centers for Medicare and Medicaid Services (CMS) on State efforts to cover the uninsured, the State Children's Health Insurance Program (SCHIP), the effect of recent CMS regulations on State Medicaid and SCHIP programs, and the effect that the economic downturn is having on State budgets and enrollment in health programs. The subcommittee received testimony from one panel of five governors representing the States of Ohio, Massachusetts, Washington, Mississippi, and Georgia.

STATE FISCAL RELIEF: PROTECTING HEALTH COVERAGE IN AND  
ECONOMIC DOWNTURN

On July 22, 2008, the Subcommittee on Health held an oversight hearing that examined the fiscal situation that States are currently facing, the effect of the economic downturn on Medicaid programs, and the effect that increased Federal support for Medicaid would have on economic recovery. The subcommittee received testimony from the American Federation of State, County, and Municipal Employees, the New Jersey Department of Health and Senior Services,



the American Enterprise Institute, and the Center for Health Transformation.

#### AMERICA'S NEED FOR HEALTH REFORM

On September 18, 2008, the Subcommittee on Health held an oversight hearing to explore the current status of healthcare coverage in the United States: the successes, the failures and the problems that need to be addressed. The hearing specifically examined the role of employer-sponsored coverage, the individual insurance market, the role of public programs such as Medicare, Medicaid and the State Children's Health Insurance Program, State's perspectives on healthcare coverage, the uninsured, and the underinsured. The subcommittee received testimony from the Governor of New Jersey, the Center for American Progress, the Georgetown University Health Policy Institute, the Commonwealth Fund, the Center for Health Transformation, and several witnesses that represented the business sector.

#### TREATMENTS FOR AN AILING ECONOMY: PROTECTING HEALTHCARE COVERAGE AND INVESTING IN BIOMEDICAL RESEARCH

On November 13, 2008, the Subcommittee on Health held an oversight hearing to examine the current fiscal situation facing States, the effect of the economic downturn on the healthcare coverage of individuals, the impact on the Medicaid program, and the effect that increased Federal support would have on economic recovery. The hearing also explored the positive economic role that the National Institutes of Health (NIH) plays in communities across America and how increased funding for the NIH would stimulate growth and lead to the creation of jobs across the country. The subcommittee received testimony from two panels of witnesses. The first panel consisted of the Governor of Arizona, a Senior Fellow from the Center for American Progress, the American Enterprise Institute, the CEO of 48Hour Print, and a Medicaid beneficiary. The second panel included the Acting Director of the NIH, the Executive Director of Families USA, the CEO of GlycoMimetics, Inc, and the Director of the New Jersey Center for Biomaterials.

#### HEARINGS HELD

*Covering the Uninsured Through the Eyes of a Child (Day 1).*—Oversight hearing on covering uninsured children. Hearing held February 14, 2007. PRINTED, Serial No. 110–6.

*Covering the Uninsured Through the Eyes of a Child (Day 2).*—Oversight hearing on covering uninsured children. Hearing held March 1, 2007. PRINTED, Serial No. 110–6.

*Exploring Options for Improving the Medicare Physician Payment System.*—Oversight hearing on Exploring Options for Improving the Medicare Physician Payment System. Hearing held March 6, 2007. PRINTED, Serial No. 110–13.

*The Genetic Information Nondiscrimination Act of 2000.*—Hearing on the Genetic Information Nondiscrimination Act. Hearing held March 8, 2007. PRINTED, Serial No. 110–15. H.R. 493.

*Insuring Bright Futures: Improving Access to Dental Care and Providing a Healthy Start for Children.*—Oversight hearing on In-

surging Bright Futures: Improving Access to Dental Care and Providing a Healthy Start for Children. Hearing held March 27, 2007. PRINTED, Serial No. 110–25.

*Reauthorization of the Prescription Drug User Fee Act.*—Hearing on the Reauthorization of the Prescription Drug User Fee Act. Hearing held April 17, 2007. PRINTED, Serial No. 110–29.

*Medicare Program Efficiency and Integrity.*—Oversight hearing on Medicare Program Efficiency and Integrity. Hearing held April 18, 2007. PRINTED, Serial No. 110–30.

*Living without Health Insurance: Why Every American Needs Coverage.*—Oversight hearing on Living without Health Insurance. Hearing held April 25, 2007. PRINTED, Serial No. 110–34.

*The Heart Disease Education, Analysis Research, and Treatment for Women Act.*—Hearing on the Heart Disease Education, Analysis Research, and Treatment for Women Act. Hearing held May 1, 2007. PRINTED, Serial No. 110–37. H.R. 1014.

*The Melanie Blocker-Stokes Postpartum Depression Research and Health Care Act.*—Hearing on The Melanie Blocker-Stokes Postpartum Depression Research and Health Care Act. Hearing held May 1, 2007. PRINTED, Serial No. 110–38. H.R. 20.

*Assessing the Impact of a Safe and Equitable Biosimilar Policy in the United States.*—Oversight hearing on biosimilar policy in the United States. Hearing held May 2, 2007. PRINTED, Serial No. 110–40.

*Assessing the Safety of Our Nation's Drug Supply.*—Oversight hearing on assessing the safety of our Nation's drug supply in response to recent drug safety concerns. Hearing held May 9, 2007. PRINTED, Serial No. 110–43.

*Medicare Savings Programs and Low Income Subsidy: Keeping Medicare's Promise for Seniors and People with Disabilities.*—Oversight hearing on Medicare Savings Programs and Low Income Subsidy: Keeping Medicare's Promise for Seniors and People with Disabilities. Hearing held May 15, 2007. PRINTED, Serial No. 110–45.

*Reauthorization of the Medical Device User Fee and Modernization Act.*—Oversight hearing on Reauthorization of the Medical Device User Fee and Modernization Act. Hearing held May 16, 2007. PRINTED, Serial No. 110–47.

*Programs Affecting Safety and Innovation in Pediatric Therapies.*—Oversight hearing on programs affecting safety and innovation in pediatric therapies. Hearing held May 22, 2007. PRINTED, Serial No. 110–49.

*The Indian Health Care Improvement Act Amendments of 2007.*—Hearing on the Indian Health Care Improvement Act Amendments of 2007. Hearing held June 7, 2007. PRINTED, Serial No. 110–54. H.R. 1328.

*Discussion Drafts Concerning Prescription Drug User Fee Act Reauthorization, Medical Device User Fee and Modernization Act Reauthorization, Drug Safety, and Certain Pediatric Pharmaceutical and Device Legislation.*—Hearing on draft legislation concerning the Prescription Drug User Fee Act Reauthorization, Medical Device User Fee and Modernization Act Reauthorization, Drug Safety, and Certain Pediatric Pharmaceutical and Device Legislation. Hearing held June 12, 2007. PRINTED, Serial No. 110–55.

*H.R. 1424, the Paul Wellstone Mental Health and Addiction Equity Act of 2007.*—Hearing on H.R. 1424, the Paul Wellstone Mental Health and Addiction Equity Act of 2007. Hearing held June 15, 2007. PRINTED, Serial No. 110–57.

*Answering the Call: Medical Monitoring and Treatment of 9/11 Health Effects.*—Oversight hearing on medical monitoring and treatment of health effects stemming from the 9/11 attacks. Hearing held September 18, 2007. PRINTED, Serial No. 110–64.

*The Food and Drug Import Safety Act.*—Hearing on The Food and Drug Import Safety Act. Hearing held September 26, 2007. PRINTED, Serial No. 110–60. H.R. 3610.

*Family Smoking Prevention and Tobacco Control Act.*—Hearing on the Family Smoking Prevention and Tobacco Control Act. Hearing held October 3, 2007. PRINTED, Serial No. 110–69. H.R. 1108.

*H.R. 1343, Health Centers Renewal Act of 2007; H.R. 2915, National Health Service Corps Scholarship and Loan Repayment Programs Reauthorization Act of 2007; and H.R. 4230, School-Based Health Clinic Act of 2007.*—Hearing on the Health Centers Renewal Act of 2007, National Health Service Corps Scholarship and Loan Repayment Programs Reauthorization Act of 2007 and School-Based Health Clinic Act of 2007. Hearing held December 4, 2007. PRINTED, Serial No. 110–76. H.R. 1343, H.R. 2915, H.R. 4230.

*Helping Families with Needed Care: Medicaid's Critical Role for Americans with Disabilities.*—Oversight hearing on Helping Families with Needed Care: Medicaid's Critical Role for Americans with Disabilities. Hearing held January 16, 2008. PRINTED, Serial No. 110–79.

*Veterinary Public Health Workforce Expansion Act of 2007.*—Hearing on the Veterinary Public Health Workforce Expansion Act of 2007. Hearing held January 23, 2008. PRINTED, Serial No. 110–81. H.R. 1232.

*Covering Uninsured Kids: Missed Opportunities for Moving Forward.*—Oversight hearing on Covering Uninsured Kids: Missed Opportunities for Moving Forward. Hearing held January 29, 2008. PRINTED, Serial No. 110–85.

*Covering Uninsured Kids: Reversing Progress Already Made.*—Oversight hearing on Covering Uninsured Kids: Reversing Progress Already Made. Hearing held February 26, 2008. PRINTED, Serial No. 110–91.

*H.R. 5613, Protecting the Medicaid Safety Net Act of 2008.*—Hearing on H.R. 5613, Protecting the Medicaid Safety Net Act of 2008. Hearing held April 3, 2008. PRINTED, Serial No. 110–104.

*Discussion Draft of the 'Food and Drug Administration Globalization Act' Legislation: Food Provisions.*—Hearing on draft legislation concerning food provisions of the 'Food and Drug Administration Globalization Act'. Hearing held April 24, 2008. PRINTED, Serial No. 110–108.

*Discussion Draft of the 'Food and Drug Administration Globalization Act' Legislation: Drug Safety.*—Hearing on draft legislation concerning drug safety provisions of the 'Food and Drug Administration Globalization Act'. Hearing held May 1, 2008. PRINTED, Serial No. 110–111.

*Stem Cell Science: The Foundation for Future Cures.*—Oversight hearing on stem cell science and Federal policy. Hearing held May 8, 2008. PRINTED, Serial No. 110–115.

*Discussion Draft of the ‘Food and Drug Administration Globalization Act’ Legislation: Device and Cosmetic Safety Provisions.*—Hearing on draft legislation concerning device and cosmetic safety provisions of the ‘Food and Drug Administration Globalization Act’. Hearing held May 14, 2008. PRINTED, Serial No. 110–117.

*H.R. 5998, Protecting Children’s Health Coverage Act of 2008.*—Hearing on H.R. 5998, Protecting Children’s Health Coverage Act of 2008. Hearing held May 15, 2008. PRINTED, Serial No. 110–118.

*Breast Cancer and Environmental Research Act of 2007, and Breast Cancer Patient Protection Act of 2007.*—Hearing on the Breast Cancer and Environmental Research Act of 2007 and the Breast Cancer Patient Protection Act of 2007. Hearing held May 21, 2008. PRINTED, Serial No. 110–121. H.R. 1157, H.R. 758.

*Discussion Draft of Health Information Technology and Privacy Legislation.*—Hearing on the Discussion Draft of Health Information Technology and Privacy Legislation. Hearing held June 4, 2008. PRINTED, Serial No. 110–122.

*Committee Prints on Administration Legislative Proposals on the Animal Drug User Fee Act Amendments of 2008 and the Animal Generic Drug User Fee Act of 2008.*—Hearing on Committee Prints on Administration Legislative Proposals on the Animal Drug User Fee Act Amendments of 2008 and the Animal Generic Drug User Fee Act of 2008. Hearing held June 5, 2008. PRINTED, Serial No. 110–123.

*Health Equity and Accountability Act of 2007.*—Hearing on the Health Equity and Accountability Act of 2007. Hearing held June 24, 2008. PRINTED, Serial No. 110–132. H.R. 3014.

*State Fiscal Relief: Protecting Health Coverage in an Economic Downturn.*—Oversight hearing on State Fiscal Relief: Protecting Health Coverage in an Economic Downturn. Hearing held July 22, 2008. PRINTED, Serial No. 110–139.

*James Zadroga 9/11 Health and Compensation Act of 2008.*—Hearing on the James Zadroga 9/11 Health and Compensation Act of 2008. Hearing held July 31, 2008. PRINTED, Serial No. 110–143. H.R. 6594.

*NIH Reform Act of 2006: Progress, Challenges, and Next Steps.*—Oversight hearing on the implementation of the NIH Reform Act of 2006. Hearing held September 9, 2008. PRINTED, Serial No. 110–144.

*America’s Need for Health Reform.*—Oversight hearing on America’s Need for Health Reform. Hearing held September 18, 2008. PRINTED, Serial Number 110–150.

*Treatments for an Ailing Economy: Protecting Health Care Coverage and Investing in Biomedical Research Steps.*—Oversight hearing on Treatments for an Ailing Economy: Protecting Health Care Coverage and Investing in Biomedical Research. Hearing held November 13, 2008. PRINTED, Serial Number 110–153.

## SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

### INTRODUCTION

During the 110th Congress, the Subcommittee on Oversight and Investigations conducted major inquiries with respect to virtually all Federal agencies within the Committee's jurisdiction, including the Departments of Commerce, Energy, Health and Human Services, the Food and Drug Administration, the National Institutes of Health, the Centers for Medicare and Medicaid Services (CMS), the Centers for Disease Control and Prevention (CDC), the Environmental Protection Agency (EPA), the Nuclear Regulatory Commission (NRC), the Federal Trade Commission (FTC), the Federal Energy Regulatory Commission (FERC), the Consumer Product Safety Commission (CPSC), and the Federal Communications Commission (FCC).

This oversight has exposed improper and illegal governmental and corporate activities, fraud, waste and abuse of taxpayer dollars, strengthened our national security and defence against terrorists, improved health care and environmental protection and generally enhanced the lives of American families and consumers in these trying economic times. These investigations also provided the basis for a number of major legislative initiatives of the Committee and will form the foundation for additional legislative actions in the next Congress.

### HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO HEALTH AND HEALTH CARE

#### HEARINGS

#### POST KATRINA HEALTH CARE: CONTINUING CONCERNS AND IMMEDIATE NEEDS IN THE NEW ORLEANS REGION

Hurricane Katrina, which made landfall near the Louisiana-Mississippi border on the morning of August 29, 2005, and the subsequent flooding caused by the failure of the New Orleans levee system resulted in one of the largest natural disasters to hit the United States. The physical and economic aftermath of the storm shattered the region's healthcare infrastructure. Thousands of physicians, mental health providers, nurses, dentists, optometrists, lab technicians, and other health professionals were displaced by the storm, and hospitals, clinics, dialysis facilities, nursing homes, and other healthcare facilities were damaged, with many forced to close. The devastation of New Orleans' healthcare system was especially profound for the region's large number of low-income and uninsured, many of whom depended heavily on Charity Hospital, one of the nation's oldest health facilities dedicated to treating the poor and disadvantaged. The closure of "Big Charity," along with the

Veterans Medical Center in downtown New Orleans, also meant the loss of the State's flagship teaching hospital and the only Level I trauma center in the Gulf Coast region.

The Committee focused significant efforts during this Congress on stabilizing and restoring the New Orleans healthcare system, recognizing that the availability of healthcare services and healthcare-related jobs, and the restoration of access for the uninsured as well as the insured, were essential to the region's long-term recovery. Committee staff spent the week of February 12, 2007, in the New Orleans region. Staff found, among other things, middle class residents who had lost their jobs and health insurance lining up overnight to receive primary care from volunteers, emergency rooms routinely exceeding capacity, and virtually every other healthcare sector struggling, fractured, or broken. Stakeholders also appeared to be at an impasse over the best approach to the role of a re-built public teaching hospital in the context of developing proposals for a statewide restructuring of Louisiana's healthcare financing system.

At a March 13, 2007, Subcommittee on Oversight and Investigations hearing, entitled "Post Katrina Health Care: Continuing Concerns and Immediate Needs in the New Orleans Region," public and private healthcare providers, as well as health policy experts, were asked to identify steps that could be taken immediately by Government officials and/or the Congress to restore access to care and quickly stabilize delivery systems. In response, Health and Human Services (HHS) Secretary Leavitt granted funding to public and private clinics, and grants to support retention and recruitment of medical providers in an effort to expand access to medical services in the region.

#### POST KATRINA HEALTH CARE: PROGRESS AND CONTINUING CONCERNS—PART II

After a follow-up field investigation to examine progress and assess issues that had become more serious in the intervening months, the Subcommittee held another hearing on August 1, 2007. The loss of Big Charity, which had served as the principal training ground for the area's doctors and allied health professionals, and the lack of flexible federal payment rules, was jeopardizing medical residency program accreditations and imposing substantial funding and administrative burdens on other medical schools in the State. In addition, the five acute care hospitals remaining in the area were reporting unsustainable operating losses due largely to extraordinary temporary nurse staffing costs, utility and insurance expenses, and costs for recruiting and retaining doctors and hospital staff. Moreover, plans for the building of a new academic medical center to replace Big Charity continued to be delayed, while uncertainty had arisen as to whether the Department of Veterans Affairs (VA) would rebuild its hospital within the city limits, as part of the planned downtown medical corridor.

In response to issues spotlighted at the hearing, HHS began considering ways to reconfigure graduate medical education payment systems so that physician and nurse training programs dislocated by the storm could continue. In November following the hearing, the VA entered into an agreement with the City of New Orleans

to begin construction of a new VA hospital. In addition, plans for restructuring federal financing of health care for the uninsured became focused on a regional pilot program as a preliminary to state-wide restructuring.

With respect to the five hospitals' request for targeted federal assistance, the Committee also asked the Government Accountability Office (GAO) and the Inspector General of HHS (OIG) to evaluate the requests and the risks to the community resulting from potential reductions in access to acute care. On July 17, 2008, GAO provided the Committee with an in-depth report using three models of financial impact analysis. The Report is entitled "Hurricane Katrina: Trends in the Operating Results of Five Hospitals in New Orleans before and after Hurricane Katrina." OIG also issued a series of reports, between May and September 2008, providing independent review of the revenue and expense information the five hospitals had submitted to the Committee, related audits of the hospitals' Medicare wage index data, and a profitability analysis of the hospitals comparing them with peer providers.

As a result of this investigation and these hearings:

- HHS released \$100 million in Deficit Reduction Act healthcare monies to establish and maintain primary care clinics throughout the metropolitan area over the next 3 years, and issued grants to support retention and recruitment of medical providers to expand access to medical services in the region.
- In November 2007, HHS began work on revisions to its Medicare graduate medical education rules to address community disaster situations involving the loss of a major teaching hospital.
- The VA entered into an agreement with the City of New Orleans to begin construction of a new hospital, as plans developed for creation of a new medical district in downtown New Orleans that would include a new VA Hospital and a new public teaching hospital. The co-location of the two hospitals will facilitate the sharing of support services and other resources.
- The Health Resources and Services Administration provided technical assistance to providers in areas ravaged by the Hurricane to increase healthcare access for underserved communities.
- In September 2008, Congress approved, and the President signed, legislation appropriating \$600 million in Social Services Block Grant monies that will be available to the State of Louisiana for assistance with stabilization of its healthcare system. The Congressional relief package provides flexible funding to States impacted by natural disasters in 2008, as well as States such as Louisiana still struggling to recover from Hurricanes Katrina and Rita.

#### PREDATORY SALES PRACTICES IN MEDICARE ADVANTAGE

On Tuesday, June 26, 2007, the Subcommittee heard testimony from victims of Medicare Advantage (MA) marketing abuses by sales agents, as well as industry representatives, State regulators, and the Director of the MA program at the Centers for Medicare and Medicaid Services. As a result of the investigation and hearings:

- CMS imposed a marketing moratorium on seven insurance companies associated with some of the more egregious sales practices targeting seniors.

- In September 2007, CMS issued the first monetary penalties against MA plans for marketing abuses.

- On October 1, 2007, as a result of the Chairman's request, CMS made public the corrective action plans it had imposed on various MA plans.

- In fall 2007, CMS launched a "secret shopper" program to ensure that plans were complying with CMS' marketing guidelines.

On May 20, 2008, the majority staff issued a staff report on additional problems with the design, oversight, and administration of MA plans. Two months later, on July 15, 2008, Congress overrode the President's veto of H.R. 6331, the "Medicare Improvements for Patients and Providers Act of 2008." This legislation addresses problems identified by the Subcommittee and prohibits MA and prescription drug plans and their sales agents from selling their products via door-to-door sales; cold calling; cross selling non-health-related products; offering meals of any sort; and conducting sales activities of any kind at educational events or in healthcare settings. The bill also calls for limits on commissions and gifts, and mandates that agents be licensed and appointed as required under State law and receive annual training on Medicare and the specific MA and Part D plans they sell. The legislation also addresses some of the serious problems highlighted in the Majority Staff Report by, for instance, imposing quality improvement programs on MA private-fee-for-service plans and Special Needs Plans.

The Committee will continue to monitor CMS' enforcement of the new provisions, as well as plan provider misconduct, particularly during open enrollment periods, and related abuses such as cherry picking of enrollees, discriminatory benefit administration, and the adequacy of information about plan options for beneficiaries.

#### NASPER: WHY HAS THE NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT NOT BEEN IMPLEMENTED?

On October 24, 2007, the Subcommittee heard testimony that the number of deaths caused by drug overdoses of prescription opioids such as oxycodone, methadone, and morphine in the United States now outnumbers deaths caused by heroin or crack cocaine. Our hearing focused on the failure of the Administration to address prescription drug abuse effectively by funding the "National All Schedules Prescription Electronic Reporting Act of 2005" (NASPER), Public Law 109 60, a new program at HHS passed by Congress and signed into law by the President in 2005 that establishes uniform standards for State-run prescription drug monitoring programs through a program. The Administration has funded a similar but more narrowly tailored grant program through the Department of Justice, and has struggled to encourage State participation and to foster interoperability among States with existing programs, resulting in a patchwork.

The Subcommittee's oversight efforts prompted the Department of Justice (DOJ) to impose new grant guidelines requiring interoperability, and to consider ways to encourage State prescription monitoring programs to more fully engage healthcare providers, health researchers, and public health administrators in the battle against prescription drug abuse.



## INVESTIGATIVE ACTIVITIES

## MEDICARE ADVANTAGE SALES FRAUD AND ABUSE

The Committee continues to examine predatory and fraudulent sales practices associated with Medicare Advantage plans, particularly plans marketed to vulnerable disabled and senior Medicare beneficiaries whose low income levels qualify them for Medicaid assistance. The Committee examined allegations in October 2008 that independent sales agents for Health Net, Inc., an insurance company that offers private Medicare health care and prescription drug plans, appeared to have engaged in serious marketing abuses in connection with its Medicare Special Needs Plan. The allegations concerned “robo-calls” (auto-dialed telemarketing calls) made to homes that in certain instances connected the recipient to a sales agent who provided misleading information about network restrictions, enrollment deadlines, and other important issues. In addition, we received evidence that sales agents for the company had enrolled low-income, non-English speaking beneficiaries in plans that, because of misinformation about network restrictions, ended up exposing the beneficiaries to medical expenses they could not pay. The investigation revealed gaps in CMS’ enforcement and oversight capabilities with respect to plans, as well as misinformation among the Medicare Advantage industry regarding telemarketing, do-not-call lists, and consumer privacy laws, and indications that agents for other plans have engaged, or may be engaging, in similar exploitive conduct.

## HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO DRUG SAFETY

## HEARINGS

## ADEQUACY OF FDA EFFORTS TO ASSURE THE SAFETY OF THE DRUG SUPPLY—PART I

On February 13, 2007, the Subcommittee on Oversight and Investigations held the first in a series of hearings examining whether the Food and Drug Administration (FDA) is fulfilling its mandate to protect the American people from drugs whose risks outweigh their benefits. This hearing focused on a case study involving the antibiotic Ketek.

The Subcommittee’s investigation revealed that serious irregularities were found during a monitoring visit at the study site of Dr. Kirkland-Campbell, one of the clinical investigators in a major Ketek clinical trial. Dr. Kirkland-Campbell eventually pled guilty to fraud in conducting her part of this study, and served a 4-year sentence in Federal prison. FDA found other serious violations of good clinical practices and study protocols at four of ten sites inspected, and ultimately decided that the study should not be relied upon. Despite the discredited trial study and over the objections of FDA reviewers and investigators, FDA managers approved the drug. It was only after Subcommittee investigators began looking into serious adverse events associated with Ketek, including liver failures that resulted in 13 deaths, did FDA change the labeling and add a “black box” warning for its use.

As a result of our investigation, on February 12, 2007, the day before the hearing, FDA announced revisions to the Ketek label that removed two indications for sinusitis and bronchitis, as had been recommended by a principle witness at the hearing (a former FDA reviewer assigned to Ketek).

ADEQUACY OF FDA EFFORTS TO ASSURE THE SAFETY OF THE DRUG  
SUPPLY—PART II

At the March 22, 2007, hearing, Dr. von Eschenbach, FDA Commissioner, testified concerning many of the issues raised at the earlier drug safety hearing as well as about FDA's "New Drug Safety Initiatives." Three additional witnesses testified regarding recent assessments of FDA's drug safety system including a GAO Report, entitled "Drug Safety: Improvement Needed in FDA's Post-market Decision-making and Oversight Process"; an Institute of Medicine Report, entitled "The Future of Drug Safety: Promoting and Protecting the Health of the Public"; and an article published in the Archives of Internal Medicine, entitled "Drug Safety: A Proposal for Sweeping Changes". These witnesses each presented comprehensive critiques of FDA's drug safety operations along with specific recommendations for reform.

As a result of our investigation, on October 24, 2007, FDA released a 12-page "warning letter" to Sanofi-Aventis concluding that Aventis did not adhere to applicable statutory and regulatory requirements governing clinical trials. The warning letter further stated that the company was aware that data it presented to FDA was compromised. The letter required Aventis to address the numerous deficiencies listed in the letter and inform FDA of all corrective action taken by Aventis to address the identified deficiencies.

FDA FOREIGN DRUG INSPECTION PROGRAM: A SYSTEM AT RISK

On November 1, 2007, the Subcommittee on Oversight and Investigations held a hearing that examined the ability of the Food and Drug Administration to adequately monitor the safety and efficacy of drugs imported from overseas. The Subcommittee's investigation revealed that during the last decade the Government Accountability Office, Congress, and FDA have all recognized serious shortcomings with FDA's foreign inspection program. Despite an increase in the volume of imported drug products, resources dedicated to the foreign drug inspection program have declined. It also highlighted an anomaly in current law and practice at the FDA that raises serious concerns about the safety and efficacy of many drugs imported into the United States. Current law requires that FDA conduct follow-up inspections for domestic firms every two years. However, the law is silent on foreign firms even though foreign firms are producing large quantities of drugs used by U.S. consumers. Some foreign firms producing drugs for U.S. market have not been inspected for durations of 12 years or more.

As a result of our investigation and hearing:

- FDA has committed to establishing offices beyond U.S. borders, in China, India, Latin America, Europe, and eventually, in the Middle East. The FDA office in China is already being established.

FDA is currently engaged in opening offices in India, Europe, and Latin America.

- FDA is currently reviewing its resources for this critical area. It is expected that additional resources will be sought during the next administration to begin closing the gap for foreign inspections of foreign firms that manufacture and ship drug products to the U.S. Additionally, partly because of this investigation, FDA is continuing to review its current IT capabilities regarding the foreign drug inspection program. FDA's existing IT platform is incapable of allowing the agency to adequately track foreign firms shipping drug products into the U.S. Because of this, FDA has also had significant difficulty in prioritizing foreign inspections. FDA efforts to improve its information technology (IT) capabilities should allow for enhancements in the foreign inspection program which should result in improving the safety of imported drugs.

- Finally, FDA has begun a new pilot program with partners in the European Union and Australia wherein they will jointly plan, allocate, and conduct certain inspections of facilities in developing countries that manufacture the starting materials for many of the drugs Americans take. If this program is successful, it could be expanded to include other types of drug manufacturing facilities. By leveraging the resources of each agency and sharing vital information, the number of foreign facilities in FDA's inspection data base will expand while allowing FDA to target its resources on products believed to present the highest risk to U.S. consumers.

#### SCIENCE AND MISSION AT RISK: FDA'S SELF-ASSESSMENT

As a companion to our investigation into FDA's ability to properly protect our Nation's drug and food supply from overseas imports, on January 29, 2008, the Subcommittee held a hearing to receive key testimony from the Food and Drug Administration's Science Board. In December 2006, FDA Commissioner Dr. Andrew von Eschenbach requested that the Science Board, which is the advisory board to the Commissioner, form a subcommittee to assess whether "science and technology" at the agency is capable of supporting existing and future regulatory operations. Their assessments were compiled in a report entitled, "FDA Science and Mission at Risk: Report of the Subcommittee on Science and Technology." The Science Board report raised concerns about several aspects of FDA's mission and current capability and it suggested the agency's overall mission of protecting the public's health was at risk.

At this hearing, the Subcommittee received testimony from members of the Science Board regarding their findings, which confirmed the work of the Subcommittee's investigation that there were serious scientific, operational, resource and technology problems confronting FDA that the current Administration had ignored to the Nation's peril. Also testifying at the hearing were the Government Accountability Office and the Congressional Research Service who testified regarding recently conducted evaluations and audits of FDA public health and safety programs. Finally, FDA Commissioner von Eschenbach attempted to respond to the challenges facing FDA, particularly those raised by the Science Board Report, and how some of these challenges should be addressed. Because the

Commissioner had not had time to formally respond to the Science Board report, the Subcommittee received an assurance from the Commissioner to return to more fully explain the FDA's strategy to overcome its shortcomings.

#### KETEK CLINICAL STUDY FRAUD: WHAT DID AVENTIS KNOW?

On Tuesday, February 12, 2008, the Subcommittee on Oversight and Investigations held a hearing focused on the role of Ketek's sponsor, Aventis (currently Sanofi-Aventis), in failing to monitor adequately a pivotal clinical trial, ultimately rejected by FDA, as fraudulent. Four witnesses, including an industry insider and three FDA criminal investigators, testified that Aventis was well aware that it was submitting faulty and probably fraudulent data to FDA in connection with the Ketek approval.

As a result of our investigation and hearing:

- The FDA finally disqualified one of the main culprits in the scandal. Dr. Kirkman-Campbell was one of the principal investigators hired by Sanofi-Aventis to participate in the Ketek clinical trial which was later found to be fraudulent. On May 8, 2008, FDA issued a Notice of Disqualification to Receive Investigational New Drugs to Dr. Kirkman-Campbell—three years after she was convicted of fraud in connection with the Ketek clinical trial.
- Provisions in the current food and drug bill being considered as a consequence of this hearing include: 1) providing FDA criminal investigators with subpoena power; 2) tightening the existing prohibitions against clinical trial fraud and 3) whistleblower protections for food and drug industry employees.

#### FDA'S FOREIGN DRUG INSPECTION PROGRAM: WEAKNESSES PLACE AMERICANS AT RISK

On April 22, 2008, the Subcommittee held another hearing to examine deficiencies in the Food and Drug Administration's resources and strategies to improve drug inspection with particular emphasis on its foreign drug inspection program. This hearing stemmed partly from a previous commitment made by the FDA Commissioner at a prior hearing to return within 60 days to the Committee to address the concerns reported by FDA's Science Advisory Board, the Government Accountability Office, and the Subcommittee. Indeed, at this hearing, the Subcommittee heard testimony from the FDA Commissioner regarding how the agency plans to address the multitude of weaknesses evident in FDA's effort to protect Americans from unsafe drugs made abroad. The hearing also sought views from a host of outside experts regarding FDA's efforts to regulate foreign-made drug products and what changes are necessary to enhance this program. The hearing produced a significant record of shortcomings that became the basis of legislative proposals to reform the FDA.

#### THE HEPARIN DISASTER: CHINESE COUNTERFEITS AND AMERICAN FAILURES

On April 29, 2008, the Subcommittee held another in a series of hearings examining FDA's drug approval process and its ability to protect Americans from unsafe drugs. This hearing focused on the

circumstances surrounding the catastrophe caused by the contamination of the drug heparin. Testifying at this hearing were the two companies, Baxter International and Scientific Protein Laboratories, whose products brought the contaminated heparin into the United States, as well as an expert on the use of heparin and its manufacture, and related blood thinners. Additionally, FDA testified regarding its actions leading up to the contamination outbreak and after the outbreak was discovered. Finally, the Subcommittee also heard from Committee staff regarding its investigation of the outbreak and from family members of victims who died after being treated with heparin.

The FDA made a number of significant changes in their policies and procedures to address the shortcoming identified by the series of Subcommittee investigations and hearings on drug safety. They included:

- In May 2008, FDA finally admitted that it needed additional resources to accomplish its mission and requested resources from Congress. FDA has also committed to hiring more people and improving its information technology systems
- In May 2008, FDA announced its Sentinel Initiative—The Sentinel network will enable the FDA to query the electronic databases of other Federal agencies and large healthcare systems (including Centers for Medicare and Medicaid Services, health maintenance organizations, and insurance companies) and virtually learn from millions of patients' experiences if problems are occurring with FDA-regulated drugs or medical devices.
- FDA has recently begun quarterly reports that list certain drugs that are being evaluated by FDA for potential safety issues because of high numbers of reported side effects and/or adverse events.
- FDA has expanded its service of posting recalls, market withdrawals, and safety alerts regarding potentially unsafe products on the market.
- On September 15, 2008, the drug company Pfizer launched a Web site detailing medication safety, including "sections written for patients and for health professionals, with plain-English explanations, engaging graphics and clips of video hosts discussing important points. It has a prominent link to information about how to report a drug side effect to MedWatch, the Food and Drug Administration reporting program."

#### INVESTIGATIVE ACTIVITIES

##### VYTORIN AND THE ENHANCE AND SEAS STUDIES

On December 11, 2007, the Committee began its investigation which is still ongoing into the drug Vytorin, an anti-cholesterol drug manufactured and marketed jointly by Merck and Schering-Plough. A clinical trial for the drug, called ENHANCE, was completed in April 2006, but as of December 2007, the companies had not yet released its results. Although Vytorin was approved by the FDA for its ability to lower cholesterol in the blood, there were no studies demonstrating that it could reduce cholesterol build-up in the arteries, or reduce heart attacks, strokes, or deaths.

There was considerable speculation in the scientific community that the ENHANCE study was being suppressed because its results were unfavorable. After our letters were sent, the companies hastily released the results of the ENHANCE trial in a press conference in January 2008. The results showed that Vytorin failed to reduce cholesterol build-up in arteries.

The Subcommittee's investigation revealed that ad hoc scientific panels were created to influence the interpretation of the ENHANCE trial, that Schering-Plough corporate officials may have sold stock in the company prior to the release of the trial results, and that another trial, called SEAS, found an increased risk of cancer in patients taking Vytorin, and that again, scientific consultants may have been commissioned to influence the interpretation of these study results. Our investigation into the Vytorin trials also led to our inquiry into advertising by the companies that appeared to be misleading. As discussed later, we included Vytorin's "Food and Family" television advertisements in our direct-to-consumer ad investigation and hearing.

In response to our investigation of Vytorin, the following actions have already been taken that generally improved public health and safety:

- The ENHANCE trial results were made public nearly 2 years after completion of the study, so that physicians and patients could have the proper information required to make clinical decisions.
- FDA determined that the Vytorin ads were not fully informative and required changes in the ads.
- Merck and Schering-Plough removed all Vytorin ads from broadcast television.
- Drug companies are less willing to suppress clinical trial results.

#### HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO FOOD SAFETY

##### HEARINGS

##### DIMINISHED CAPACITY: CAN THE FDA ASSURE THE SAFETY AND SECURITY OF THE NATION'S FOOD SUPPLY?—PART I

On April 24, 2007, the Subcommittee held its first hearing regarding the safety and security of the Nation's food supply. The purpose of this hearing was to examine the issue of food safety as it pertained to foods for both human and animal consumption. At this hearing, the Subcommittee attempted to assess the extent and magnitude of foodborne contamination outbreaks and whether the FDA could adequately ensure the safety of food consumed in this country.

In particular, this hearing focused on recent food contamination outbreaks involving spinach, lettuce, peanut butter, as well as melamine-tainted wheat gluten in pet food. The hearing featured witnesses who had experienced illnesses resulting from food poisoning. In addition, an expert from GAO provided an overview of high-risk issues related to food safety, and a veterinarian testified about the extent of pet illnesses and deaths caused by the episode of contaminated pet food. Finally, testimony was heard from officials of four

companies that produced contaminated food products and pet foods. At the conclusion of this hearing, it was readily apparent to the Subcommittee that FDA, at present, was unable to protect the safety of the Nation's food supply. The Subcommittee concluded that further investigation into the matter would be necessary and future hearings would be held on the subject.

DIMINISHED CAPACITY: CAN THE FDA ASSURE THE SAFETY AND  
SECURITY OF OUR NATION'S FOOD SUPPLY?—PART II

The second food safety hearing on July 17, 2007, consisted of three panels of witnesses, and focused on the adequacy of FDA's efforts to protect Americans from unsafe food and the effect that a proposed Office of Regulatory Affairs (ORA) reorganization would have on FDA's ability to carry out its mandate to assure food safety.

On the first panel, Committee staff testified regarding findings made during its food safety investigation. Committee staff found that FDA had failed to adequately respond to increased imports of foreign food products, FDA lacked sufficient resources and authority to ensure food safety, and the proposed reorganization plan, which would close seven field laboratories, change FDA's structure, and centralize decision making in Washington, would exacerbate the current food safety situation. Finally, Committee staff found that FDA's current regulatory approach that relied on voluntary guidelines appeared inadequate in responding to the changing food industry.

The second panel featured the testimony of seven individuals. The first two witnesses testified how FDA's current resources and policies cripple the agency's mission to protect Americans from unsafe food and drugs. The remaining witnesses on the panel were FDA employees who testified that the ORA reorganization and closing of field laboratories would severely impair FDA's ability to ensure food safety. The last panel was comprised of four officials from FDA headquarters who presented testimony and answered questions about the agency's ability to protect Americans from unsafe food.

After this hearing, FDA canceled its plan to reorganize its Office of Regulatory Affairs after FDA failed to provide any justification for doing so. Among other things, the reorganization plan called for closing 7 of 13 FDA field laboratories. Today, those laboratories remain open. Since this hearing, FDA has canceled its plans to reorganize its Office of Regulatory Affairs.

DIMINISHED CAPACITY: CAN THE FDA ASSURE THE SAFETY AND  
SECURITY OF OUR NATION'S FOOD SUPPLY?—PART III

The third food safety hearing on October 11, 2007, focused on the safety of food imported into the United States and the adequacy of the efforts of both FDA and the United States Department of Agriculture (USDA) to ensure the safety of unsafe, imported food.

Committee staff testified regarding its examination of food safety issues, including the Committee staff's trip to China. While in China, Committee staff found that the Chinese food supply chain does not meet international standards and the Chinese government appeared determined to avoid embarrassing food safety outbreaks in

export markets due to the damaging and potentially lasting effects this would have on its brand. Most importantly, however, Committee staff concluded that the lack of meaningful internal regulation of farming and food processing in China, the advanced development of the counterfeiting industry, and the willingness of some entrepreneurs in both China and the United States to smuggle foodstuffs that do not meet quality standards, necessitated a much more rigorous program of inspection and laboratory testing in China and at U.S. ports of entry than the FDA had been willing or able to do.

On the second panel, a Congressional Research Service analyst testified regarding the methods employed by Japan and Hong Kong to ensure the safety of food imports from China, and an executive of an American company in China testified about quality control measures that his company employs to assure food safety in its Chinese facilities. FDA and United States Department of Agriculture (USDA) officials appeared on the last panel and testified about their agencies' efforts to ensure the safety of imported food.

After this hearing, in November 2007, the Administration released an "Action Plan for Import Safety: A Roadmap for Continual Improvement," which outlined how the United States could improve the safety of all imported products. On the same day, FDA unveiled its "Food Protection Plan: An Integrated Strategy for Protecting the Nation's Food Supply." This plan addressed both food safety and food defense for domestic and imported products. Many of the Committee's recommendations on how the United States could improve the safety of food appeared in the plans.

#### DIMINISHED CAPACITY: CAN THE FDA ASSURE THE SAFETY AND SECURITY OF OUR NATION'S FOOD SUPPLY?—PART IV

The final food safety hearing in the first session was held on November 13, 2007, and focused on decisions by FDA and USDA to allow meat and seafood to be packaged in a modified atmosphere containing carbon monoxide. In particular, this hearing examined potential consumer deception and food safety issues with meat and seafood packaged in an atmosphere containing carbon monoxide and deficiencies in FDA's "Generally Recognized As Safe" (GRAS) determination process. Majority staff began this investigation in February 2006 by sending a letter to FDA requesting information about the agency's "Generally Recognized As Safe" (GRAS) determinations. Representatives Dingell and Stupak also wrote to HHS Secretary Michael O. Leavitt requesting that he "rescind its GRAS determinations regarding the use of carbon monoxide to color meat and fish until such time as notice and comment rulemaking can determine whether such practices, under existing conditions of refrigeration and labeling and existing consumer practices, are safe for American consumers."

At this hearing, representatives from FDA and USDA discussed their agency's decisions to allow meat and seafood to be packaged in a modified atmosphere containing carbon monoxide. Subcommittee Members also heard testimony from representatives of consumer organizations concerned with food safety who discussed consumer deception issues surrounding carbon monoxide atmosphere packaged products. Finally, the chief executive officers of



companies testified about the use of carbon monoxide in the packaging of their products.

Prior to this hearing, Safeway, Inc., Giant Food, LLC, Stop & Shop Supermarket Company, and Tyson Foods, Inc., announced they would cease the sale of meat packaged in a modified atmosphere containing carbon monoxide. Target Corporation decided to continue selling such meat, but said it would label those products to alert consumers of its practice.

#### CONTAMINATED FOOD: PRIVATE SECTOR ACCOUNTABILITY

The next food safety hearing was held on February 26, 2008, and focused on companies that have produced dangerous, contaminated food and examined how factors within the private sector, including the effects of lax regulation, contribute to outbreaks of foodborne illnesses. This hearing also explored how the private sector can prevent future food contamination outbreaks.

This hearing examined recent food contamination episodes including *Salmonella* tainted peanut butter and pot pies, botulism in canned food products, produce contamination outbreaks, and the largest beef recall in history. Chief executives from five companies who produced some of these products testified at the hearing. Also testifying at this hearing was a food safety attorney and expert who testified regarding his many experiences dealing with companies who have produced food contamination outbreaks, the Executive Director of the Southern Shrimp Alliance who testified regarding the safety of imported seafood, and, finally, a representative from the Humane Society of the United States who testified regarding deficiencies in the regulation of the meat industry.

#### REGULATORY FAILURE: MUST AMERICA LIVE WITH UNSAFE FOOD?

This hearing held on March 12, 2008, focused on unanswered questions from the Subcommittee's February 26, 2008, food safety hearing. During the February 26, 2008, hearing, a wide range of private sector firms testified regarding potential solutions to remedy the problem of contamination in their food products. This hearing gave the primary regulators of the country's food supply, FDA and USDA, the opportunity to supply the Committee with the changes that they have implemented in an attempt to cope with the problem of pathogens in the Nation's food supply.

This hearing also featured the testimony of the Mr. Steven Mendall, President of the Hallmark/Westland Meat Company, who testified regarding the circumstances surrounding his firm's record recall of more than 143 million pounds of ground beef. Because of Mr. Mendall was unwilling to appear before the Subcommittee voluntarily, the Subcommittee held a business meeting on March 5, 2008, and unanimously voted to authorize the issuance of a subpoena for Mr. Mendall to compel his testimony at this hearing.

Finally, this hearing also examined the use of food irradiation as a step to increase the safety of the Nation's food supply and why FDA had not acted on several petitions seeking its approval for use on certain foods for more than eight years.

After this hearing, in August 2008, FDA finally approved the use of irradiation on fresh iceberg lettuce and fresh spinach.

AMERICAN LIVES STILL AT RISK: WHEN WILL FDA'S FOOD PROTECTION  
PLAN BE FULLY FUNDED AND IMPLEMENTED?

The eighth food safety hearing held by the Subcommittee during the 110th Congress was held on June 12, 2008. At this hearing, the Subcommittee received key testimony from the Food and Drug Administration regarding how the agency is addressing its many weaknesses in protecting the Nation's food supply. The hearing focused largely on what progress FDA has made in implementing the "Food Protection Plan," which was issued by the Administration in late 2007, and what resources the agency believes are needed to achieve key milestones associated with this effort. The Subcommittee also attempted to understand what and when additional legislative tools and budgetary resources are needed to best accomplish this effort. Finally, the Subcommittee also sought the views from various outside experts regarding FDA's efforts to safeguard the Nation's food supply and what additional efforts are necessary to enhance FDA's food safety program.

THE RECENT SALMONELLA OUTBREAK: LESSONS LEARNED AND  
CONSEQUENCES TO INDUSTRY AND PUBLIC HEALTH

On July 31, 2008, the Subcommittee held its ninth hearing regarding the safety and security of the Nation's food supply. This hearing examined the events surrounding the recent *Salmonella* Saint Paul outbreak. The hearing focused on the efforts of the Centers for Disease Control and Prevention and FDA to identify the cause of the national *Salmonella* outbreak.

The hearing also examined a portion of the Bioterrorism Act of 2002, which required FDA to establish procedures to trace and track food commodities and maintain accurate chain-of-custody records, to assess whether additional alterations to the Bioterrorism Act are required. Further, the hearing looked at proposals developed by States and certain grower industries to establish traceability systems. Finally, the hearing allowed Members to consider what changes might be necessary to ensure that regulators are prepared to respond rapidly to future outbreaks.

INVESTIGATIVE ACTIVITIES

NATIONAL FOOD SAFETY SURVEY OF CORPORATE FOOD PRODUCERS

In May, the Committee sent letters to 51 of the largest food processing firms in an effort to determine the source and extent of threats to the safety of the Nation's food supply. The letter of inquiry asked each company about their history of recalls, food safety alerts, and all instances of known microbiological or chemical contamination of their products since 2000. The responses are being currently compiled and analyzed to identify food safety issues that need to be addressed in the future.

The survey was conducted to comprehend important issues relating to safety of the nation's food supply. The companies were asked to provide the following pertinent information: (1) A list of recalls (microbial, chemical or physical) and the type of recalls that were done, (2) Internal test results of microbial contamination with foodborne pathogens of domestic and imported foods, and actions

taken to address the contamination, (3) Internal test results pertaining to chemical contamination with hazardous chemical agents of domestic and imported foods, and actions taken to address the contamination, and (4) Compliance with FDA or USDA site inspections. The Staff is currently analyzing the results and plans to release them in early 2009.

#### INFANT FORMULA AND BISPHENOL A

On January 17, 2008, the Committee began an investigation which is still continuing into the use of the chemical Bisphenol A (BPA) in the lining of infant formula cans. The investigation has revealed that:

- BPA is a commonly used chemical that hardens plastic; its use as a liner in aluminum cans serves to protect the cans contents from the can metal and exposure to outside air.
- BPA also has estrogen hormone-like properties and has been linked to developmental defects. BPA in the lining of infant formula cans may result in the chemical leaching into the formula itself, thereby exposing infants and children to the chemical.
- Our letter to the major manufacturers of liquid infant formula revealed that BPA is used nearly universally in infant formula can linings and that manufacturers were not properly testing for its presence in the formula. We also discovered that FDA based its determination of BPA's safety on a few industry-funded studies, and ignored the totality of the science on BPA, which shows a significant risk when exposed to low level of the chemical.

This investigation has also obtained a number of important accomplishments. In response to it:

- The FDA created a study group to reassess their position on BPA, and the FDA Science Board assailed a draft of the study group, stating that the document ignored the vast majority of studies related to BPA.
- The major manufacturers of liquid infant formula in the United States have agreed to find and use alternatives to BPA in their can linings.
- Major retailers such as Wal-Mart have begun to phase out products that contain BPA.
- The FDA's BPA study group is rewriting its draft reassessment of BPA and awaiting ongoing studies into the safety of BPA. FDA has created a study group to reassess their position on BPA.

#### ACTIONS OF PRIVATE LABORATORIES THAT TEST FOOD UNDER IMPORT ALERT

Under FDA's Import Alert rules, private laboratories are responsible for analyzing the most dangerous imported food products entering this country. Products under Import Alert are only allowed to enter the country after a private laboratory has determined they are safe. The Subcommittee's food safety investigation uncovered problems with this system. In an effort to determine the amount of contaminated food that is entering this country because of flaws in this system, the Subcommittee requested information from 11 private laboratories that test food under Import Alert. An extensive amount of information about violative samples was received from

each laboratory and was still being analyzed at the end of the 110th Congress.

#### USE OF ARTIFICIAL FOOD COLORINGS

In late 2008, the Subcommittee staff began an inquiry into the use of artificial food colorings since their use has been shown to act as neurotoxin and cause hyperactivity in some children. Many multinational food companies use these artificial food colorings in foods marketed to children in the United States, but sell the identical product in Europe using only natural food colorings (which have not been linked to adverse health effects in children). Examples include Mars M&Ms and Skittles, Kellogg's Pop-Tarts, Pepsi's Gatorade, Nestle Quick, and McDonald's strawberry sundaes. There is no European regulation that requires only natural food coloring, but the threat of regulation has prompted the companies to change their ingredients in Europe. The Staff are currently planning to send letters to various food companies to collect further information about their products and ask them why they continue to market products with artificial dyes in the United States.

#### INVESTIGATIVE ACTIVITIES PERTAINING TO OVERSIGHT OF THE FOOD AND DRUG ADMINISTRATION

##### FDA COMPENSATION PRACTICES

On April 12, 2007, the Committee began its investigation into compensation practices at FDA. On that same day, the Committee sent a letter to FDA inquiring about FDA's use of Title 42 compensation, as well as FDA's use of retention bonuses, locality bonuses, and performance or other salary enhancements or awards. On April 12, 2007, the Subcommittee also sent a second letter to FDA inquiring about any abuses of compensation for time set aside for religious observances. An additional request for records relating to religious compensation was sent to FDA on August 13, 2007. On September 5, 2007, the matters relating to compensation practices at FDA were referred to the HHS Inspector General. The next day, the Committee asked GAO for assistance in examining the compensation practices for all agencies under the jurisdiction of the Committee on Energy and Commerce. Additional requests for information relating to the compensation practices at FDA were made on September 17, 2007, and April 28, 2008. Responses from those requests are currently under review by the Subcommittee staff with assistance from the HHS Inspector General.

##### FDA CONTRACTING

On April 21, 2008, the Committee sent a letter to FDA Commissioner von Eschenbach expressing concern that FDA might be needlessly wasting critical agency resources when hiring outside public relations firms. In that letter, the Committee requested that FDA supply it with records relating to any such contract and all communications between the agency and outside public relations firms.

On August 21, 2008, FDA responded to the letter and provided some of the records requested. Although the response was woefully inadequate, the Committee did learn of an existing sole source con-

tract between FDA and Alaska Newspapers, Inc. (ANI), in which Qorvis Communications served as a subcontractor. After reviewing the documents, the Committee leaders decided to investigate FDA's actions surrounding this contract.

On October 2, 2008, the Committee sent a letter to Michael O. Leavitt, Secretary of the U.S. Department of Health and Human Services, which outlined the Committee's concerns regarding the contract and requested additional records pertaining to the contract. On that same day, the Committee also sent letters to Qorvis Communications, LLC, Calista Corporation, and Red Team Consulting, LLC, requesting information about the circumstances leading up to the contracting decision. The Committee reviewed all information provided by the three companies and HHS.

On November 17, 2008, the Committee wrote to FDA requesting additional information on the agency's sole source contract with Alaska Newspapers, in which Qorvis served as a subcontractor. The letter asked FDA to make key staff available for interview.

Ultimately, the contract was suspended by FDA and the Inspector General conducted an independent review. The Subcommittee is currently planning additional interviews and records requests to pursue this inquiry into the next Congress.

#### HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO ENERGY AND THE ENVIRONMENT

##### HEARINGS

##### 2006 PRUDHOE BAY SHUTDOWN: WILL RECENT REGULATORY CHANGES AND BP MANAGEMENT REFORMS PREVENT FUTURE FAILURES?

On May 16, 2007, the Subcommittee conducted a hearing examining the shutdown of the Prudhoe Bay field, why the spill occurred, and how British Petroleum (BP) intended to change its operating culture, which may have contributed to the failure of key pipelines. The Committee's investigation uncovered an accepted worker environment where severe cost-cutting on the North Slope (and possibly U.S.-wide) drove many key management decisions in the Prudhoe Bay field.

The investigation and hearing also uncovered evidence that BP workers were often forced to forego safety measures to save money and ultimately increase BP's profits. E-mails discovered in this investigation referred to stopping or reducing a range of important activities that are critical to maintaining a safe field in order to reduce spending. These included the reduction of the use of critical chemicals and agents designed to stop or mitigate corrosion such as biocides or corrosion inhibitors that are injected into key piping systems. Other key corrosion inspection programs including smart pigging and maintenance pigging, examining corrosion under the insulation that covers (and thus hides) the pipe, and digging up key road crossings where corrosion can be a significant problem—were also affected by this cost-cutting program.

The Subcommittee's investigation resulted in BP making major changes to their work culture on the North Slope, and the assurance that BP would completely overhaul many of the critical pipe-

lines responsible for delivering oil product ultimately to U.S. consumers.

GASOLINE PRICES, OIL COMPANY PROFITS AND THE AMERICAN  
CONSUMER

On May 22, 2007, the Subcommittee held a hearing to examine the factors underlying the recent sharp rise in gasoline prices, the effects of such increases, and the role of the Federal Trade Commission (FTC) in addressing this problem. The hearing included testimony from State and Federal regulators with direct experience with this issue. The Subcommittee also received testimony from public interest groups and an energy economist. Several of the largest oil companies and refiners were invited to testify, but declined the opportunity.

The Subcommittee's investigation showed that:

- The sharp rise in gasoline prices imposes a very substantial cost burden on the average American consumer. By increasing the cost of transportation, rising gasoline prices affect the cost of goods and services throughout the economy and can even cause recession. GAO has estimated that each additional 10 cents per gallon of gasoline adds \$14 billion to Americans' annual gasoline bill.

- During the recent waves of mergers and acquisitions in the oil industry, including the combination of some of the largest and most profitable companies in the world, there has been little response from Government regulators. At the Federal level, the FTC has the primary responsibility for merger reviews for the oil industry, for monitoring gasoline prices, and for investigating possible antitrust violations under the Sherman Act and the Clayton Act. The FTC did not object to any of the major oil company mergers and acquisitions of the past 10 years.

- No Federal law specifically addresses price gouging. Although the Energy Policy Act of 2005 did require the FTC to investigate whether the price of gasoline is being "artificially manipulated by reducing refinery capacity or by any other form of market manipulation or price gouging practices," the statute did not provide a remedy for price gouging. In May 2006, the FTC released its report, finding generally that sellers behaved competitively and that price increases in the aftermath of Hurricane Katrina were the result of increased costs, although there were limited instances of price gouging.

The Subcommittee's investigation and hearing created a record in support of Subcommittee Chairman Stupak's bill, H.R. 1252, the Federal Price Gouging Prevention Act, which passed the House on May 23, 2007.

ENERGY SPECULATION: IS GREATER REGULATION NECESSARY TO STOP  
PRICE MANIPULATION?—PARTS I & II

On December 12, 2007 and June 23, 2008, the Subcommittee held hearings to assess whether excessive speculation in futures markets was responsible for driving up energy prices, and also examined whether excess speculation could be blamed for the doubling of crude oil prices.

The Subcommittee's investigation examined major loopholes in futures market regulation that contributed to a price bubble in oil

markets. These were the “Enron Loophole”, which allows speculators to avoid regulatory oversight by trading energy commodity futures on unregulated over-the-counter markets and the “London Loophole”, which allows foreign boards of trade, such as ICE Futures Europe, to offer energy futures contracts for commodities with a U.S. delivery point on electronic terminals in the U.S., but operate free from the Commodity Futures Trading Commission (CFTC) market integrity rules.

Natural gas and heating oil buyers testified that speculators can use these loopholes to manipulate market prices. They pointed to reports about the hedge fund, Amaranth, which evaded market oversight by shifting its natural gas holdings from the CFTC-regulated NYMEX to the unregulated ICE market. The hearings released voice recordings of traders discussing strategies to squeeze prices and disguise their efforts at price manipulation.

In addition, the Subcommittee probed whether the CFTC was attempting to undermine authority provided to the Federal Energy Regulatory Commission to police and punish price manipulation in physical and financial markets for natural gas and electricity. These laws were enacted in 2005 after it was revealed that Enron had intentionally manipulated energy supplies and prices as part of the California energy crisis.

These hearings created a record that assisted Congress in the enactment of a number of key legislative initiatives in the 110th Congress. These included:

- The Food, Conservation, and Energy Act of 2008 (P.L. 110 246), which was enacted on June 18, 2008, partially closed the Enron Loophole, by requiring that certain high volume futures contracts which trade on exempt electronic trading facilities be subject to CFTC regulation. This includes speculative position limits and large trader reporting; however, these reforms do not close the foreign board of trade loophole.
- The House of Representatives passed the Commodity Markets Transparency and Accountability Act of 2008 (H.R. 6604) on September 18, 2008. This bill closed the Swaps Loophole, narrowed the “London Loophole”, provided transparency in the unregulated OTC markets and empowered the CFTC to intervene in the unregulated derivatives markets. The Senate did not take up this bill in the 110th Congress.
- The FY09 Energy and Water Appropriations Act provided the Energy Information Administration with funding and direction to monitor activities futures markets, in addition to monitoring and reporting data on physical energy markets.

#### SELLING THE DEPARTMENT OF ENERGY’S DEPLETED URANIUM STOCKPILE: OPPORTUNITIES AND CHALLENGES

An April 3, 2008, Subcommittee held a hearing to assess whether the Department of Energy (DOE) has a plan to generate income for the U.S. treasury by selling part of its depleted uranium stockpile to utilities or uranium enrichment companies. Between 2000 and 2008, uranium prices jumped tenfold, from about \$21/kg to \$200/kg. This price increase has transformed DOE’s depleted uranium tails (tails) inventory from an environmental liability into a potential \$7.6 billion asset, according to GAO.

The hearing found that DOE lacked a concrete strategy to capitalize on the value of the tails, and explored whether DOE needed additional legal authority to auction or barter the depleted uranium. In addition to auctioning the tails “as is” to utilities, DOE could enter into a sole source contract with the United States Enrichment Corporation, currently the sole operator of a domestic uranium enrichment plant, to enrich the tails. Alternatively, DOE could ship the tails overseas to France or Russia for enrichment where there is excess capacity. GAO found that the Atomic Energy Act must be amended to provide DOE additional legal authority to auction the tails. The Committee is currently developing legislation directing DOE how to optimize returns to taxpayers from its depleted uranium tails inventory.

POISONED PATRIOTS: CONTAMINATED DRINKING WATER AT CAMP  
LEJEUNE

On June 12, 2007, the Subcommittee held a hearing to examine issues arising from the past contamination of drinking water at U.S. Marine Corps Base Camp Lejeune. The hearing included testimony from former Marine Corps residents of Camp Lejeune who, along with their families, drank, cooked with, and bathed in the contaminated water. The Subcommittee also received testimony from Government agencies that are responsible for dealing with the contamination, assessing the adverse health effects, and investigating allegations of criminal violations of Federal law, including the Marine Corps, the Department of the Navy, the Agency for Toxic Substances and Disease Registry (ATSDR), the Environmental Protection Agency, and GAO. As a result of this hearing, a provision was inserted into the Defense Authorization Act for 2008 (Public Law 110–181) requiring the Navy to notify all current and former Marines who might have been affected by the drinking water contamination at Camp Lejeune.

The Subcommittee’s investigation revealed that:

- Drinking water contamination by trichloroethylene (TCE) at Camp Lejeune began much earlier and continued longer than was originally believed, extending from at least 1957 to 1987.
- The TCE contamination at Camp Lejeune far exceeded the Navy Department’s own drinking water standards that existed at the time, as well as EPA’s current drinking water standard.
- The Navy has received 850 claims for injuries or death caused by this contaminated drinking water, yet has acted on none of them.
- The Defense Department has never attempted to personally notify all of the Marines and their families who were exposed to the contamination.

This was the first of a series of hearings the Subcommittee plans to hold on environmental problems at Department of Defense (DOD) facilities. The Subcommittee intends to issue a comprehensive staff report on this investigation in 2009.

SCIENCE UNDER SIEGE: SCIENTIFIC INTEGRITY AT THE  
ENVIRONMENTAL PROTECTION AGENCY

On September 18, 2008, the Subcommittee on Oversight and Investigations held a hearing to examine scientific integrity at the



U.S. Environmental Protection Agency. As part of this inquiry, the Subcommittee examined allegations of political and commercial interference with EPA scientists and science-based decision making at the Agency; the “streamlining” of the Integrated Risk Information System (IRIS) to make it much more difficult for EPA to publish scientific analysis on the human health risks of chemicals; the EPA’s removal of Dr. Deborah Rice at the request of the chemical industry from a scientific peer review panel on the flame retardant chemical decabromobiphenyl ether (Deca); and the EPA’s adoption of a since-discredited test method for toxaphene at the Hercules Superfund site near Brunswick, Georgia.

Witnesses testifying at the hearing included GAO, the Union of Concerned Scientists, Dr. Deborah Rice (chief toxicologist for the State of Maine), two environmental groups, the chemical industry, and EPA.

The Subcommittee’s investigation revealed that:

- EPA’s new, “streamlined” IRIS process has all but halted new or updated entries to the IRIS database on the health effects of toxic chemicals. The slowdown in IRIS entries and updates is tied to the intervention of the Office of Management and Budget (OMB) in the IRIS review and approval process. It appears that any IRIS listing that is the least bit controversial will take from 6 to 8 years to be completed under this new process.

- EPA’s new IRIS process allows OMB to conduct IRIS evaluations in secret. Under this system, OMB, rather than EPA, manages the process and receives secret comments from polluting agencies, such as DOD and DOE. Under the new process, OMB, not EPA, controls the IRIS process and what goes into the final evaluations.

- A survey conducted by the Union of Concerned Scientists showed that political interference with EPA scientists was frequent and pervasive. Hundreds of EPA scientists complained of political interference in their scientific work. Moreover, interference comes from inside the Agency, from other agencies, from the White House, and from the private sector via political appointees.

- At the request of the chemical industry, EPA removed Dr. Deborah Rice from an EPA peer-review panel on the human health effects of Deca. EPA told Dr. Rice that she was being removed due to a “conflict of interest” because she had provided to the Maine legislature in her capacity as the State toxicologist her opinion that there are safer chemicals than Deca available for use as flame retardants. EPA’s decision to remove her is unjustifiable, since there is no conflict of interest in a State employee testifying before the State legislature on a subject on which she is expert.

- EPA tested for toxaphene contamination using the wrong test and searching for the wrong toxins, despite being told by the Army Corps of Engineers, ATSDR, and the EPA Inspector General that it was using the wrong test and testing for the wrong toxins. Moreover, EPA based its testing decision on an unsupported scientific paper published in a journal biased in favor of the chemical industry.

We anticipate that this may be the first of a series of hearings on the role of scientific integrity in Government regulation and in the private sector.

## INVESTIGATIVE ACTIVITIES

## SUPPRESSION OF THE CDC'S GREAT LAKES REPORT

The Subcommittee conducted an investigation into the circumstances surrounding the CDC's decision to block the release of a study conducted by its own scientists entitled, "Public Health Implications of Hazardous Substances in the Twenty-Six U.S. Great Lakes Areas of Concern" (referred to as the "Great Lakes Report"). The Committee also investigated allegations that the lead scientist who conducted the study was being retaliated against by the CDC because of the findings reached in the Great Lakes study, and for revealing the human health risks created by formaldehyde in the FEMA trailers provided to Katrina victims.

As a result of the Subcommittee's investigation, the CDC agreed to finally publish the report and not to take adverse personnel actions against the lead scientist involved. In addition, the CDC revised the Great Lakes Report and sent it to the Institute of Medicine at the National Academies of Science for an independent review.

## ENVIRONMENTAL ENFORCEMENT

We are examining whether Federal agencies that are supposed to police the polluters and protect consumer interests are doing an adequate job of enforcement. An investigation is underway into a plea agreement between British Petroleum and DOJ regarding a refinery explosion that killed 15 and injured 170 in Texas. The key question is whether the plea agreements are inadequate to deter this kind of misconduct in the future.

## HEALTH RISKS AT ATSUGI NAVAL AIR FACILITY IN JAPAN

We have initiated an investigation of the Department of the Navy's failure to protect its own service men and women, as well as their dependent families, from pollution caused by a hazardous waste incinerator at the Atsugi Naval Air Facility in Japan. The Committee is also examining the Navy's refusal to provide medical treatment to those injured by the incinerator, including dependent families.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO  
COMMERCE, TRADE, AND CONSUMER PROTECTION

## HEARINGS

DIRECT-TO-CONSUMER ADVERTISING: MARKETING, EDUCATION, OR  
DECEPTION?

On May 8, 2008, the Subcommittee held a hearing to examine the potentially misleading and deceptive tactics used in direct-to-consumer (DTC) advertisements (ads) for prescription pharmaceutical products. The hearing examined three specific television advertisements: ads for Lipitor featuring Mr. Robert Jarvik, "Food and Family" ads for Vytarin, and "cancer fatigue" or "quality of life" ads for the cancer drug, Procrit.

The Subcommittee's investigation revealed that:

The United States is only one of two countries that allow DTC ads.

- Research has shown that DTC advertising may result in advertised drugs being prescribed when a similar, less-expensive drug may have been just as appropriate.

- Every \$1 spent on DTC advertising results in up to a \$6 increase in sales, and one study demonstrated that every \$1,000 spent in DTC advertisements resulted in 24 new prescriptions.

The investigation and hearing accomplished the following:

- The Jarvik Lipitor ads and the Vytarin ads were taken off the air.

- PhRMA (Pharmaceutical Research and Manufacturers of America) has revised their DTC guidelines and adopted many of the Committee's recommendations.

As part of this investigation, the Subcommittee initiated numerous Committee letters questioning the safety of a class of cancer drugs known as Erythropoiesis-Stimulating Agents (ESAs). Subcommittee staff attended several FDA Advisory Committee meetings in connection with these drugs where the abusive marketing practices of these drugs which were addressed at the DTC hearing were raised. It is apparent that the Subcommittee's oversight attributed to a number of drastic changes in usage and marketing of this specific class of drugs:

- On July 30, 2007, CMS issued a National Coverage Decision (NCD) which greatly restricted reimbursement for use of the drug.

- On November 8, 2007, FDA strengthened the boxed warnings and announced other label changes for ESAs, which included a warning concerning risk of mortality and tumor growth.

- On September 11, 2008, Amgen, the manufacturer of one of the ESA cancer drugs, announced that it would discontinue certain of its abusive marketing practices (called "bundling" which involved rebates for purchasing quantities of another Amgen drug), which have been criticized for encouraging overuse of the drug.

#### IN THE HANDS OF STRANGERS: ARE NURSING HOME SAFEGUARDS WORKING?

In response to a wave of acquisitions of large, publicly held nursing home chains by private equity firms and the development of new and opaque investment models, the Subcommittee launched an investigation into the effect of new ownership structures. The Subcommittee's investigation revealed that CMS's and the States' ability to identify and track nursing home owners and investors is severely limited, and that the current inspection systems, intended to protect residents from abuse and neglect, are ill-adapted to deal with chain ownership and systemic weaknesses.

On May 15, 2008, the Subcommittee held its first hearing in 31 years on nursing home resident protection issues. The CMS Administrator had contended, prior to the hearing, that CMS could enforce resident protection rules regardless of ownership form. However, after listening to numerous witnesses testify about the difficulties in finding and holding the right people accountable for poor care when ownership is opaque—including the Attorney General of Connecticut, a local Ombudsman, the family of a neglect victim, and HHS's Office of Inspector General—the Administrator prom-

ised to improve the CMS tracking and survey systems and work with the States and OIG to ensure interoperability and broader access to information.

#### AS A RESULT OF OUR INVESTIGATION AND HEARING:

- In February 2008, CMS publicly disclosed the names of 147 nursing homes, including those terminated from the Medicare and Medicaid programs for persistent failure to improve.
- Shortly before the hearing, CMS linked the poor performer list to its “Nursing Home Compare” Web site for consumers.
- Shortly after the hearing, CMS implemented a more informative “five-star” rating system on its Web site to help families evaluate the quality of care in nursing homes.
- In August 2008, CMS began requiring its quality improvement contractors to work closely with and provide technical assistance to chronically poor performing nursing homes.
- Legislation has been introduced in the Senate to require ownership information and expand legal protections for residents and their families, with similar legislation being drafted in the House.

#### LONG-TERM CARE INSURANCE: ARE CONSUMERS PROTECTED FOR THE LONG TERM?

The Subcommittee investigated long-term care insurance carriers that unfairly deny or delay payment on claims. On July 24, 2008, the Subcommittee held an oversight hearing at which we heard from GAO, State regulators, consumer advocates, industry representatives, and the family of an elderly disabled policyholder. The Subcommittee examined whether insurers were unfairly increasing premium rates on existing customers and improperly denying claims, and the extent to which States could adequately protect consumers from industry abuses.

Since the hearing, efforts have increased to strengthen consumer protections in model long-term care insurance laws, including the development of procedures for independent third-party review of claims denials. At the same time, in response to issues raised by the Subcommittee, Senate and House staff is working on legislation to foster stronger and more uniform consumer protections at the State level.

#### INVESTIGATIVE ACTIVITIES

##### THE FEDERAL COMMUNICATIONS COMMISSION’S REGULATORY PROCESSES AND MANAGEMENT PRACTICES

The Subcommittee staff conducted an investigation of the Federal Communications Commission’s (FCC) regulatory processes and management practices. The Subcommittee’s investigation was prompted by allegations to the effect that Chairman Kevin J. Martin has abused FCC procedures by manipulating or suppressing reports, data, and information.

Over the course of the investigation, the Committee staff reviewed several hundred thousand documents (both hard copy and electronic), including 95 boxes of paper documents; conducted 73 interviews of current and former FCC employees and individuals

associated with the telecommunications industry; solicited and received e-mails from FCC employees and contractors at a secure e-mail address established for this purpose; and reviewed dozens of allegations that were delivered by hand, fax, phone, and mail.

On December 9, 2008, the Committee released the Majority Staff Report on this investigation, “Deception and Distrust: The Federal Communications Commission Under Chairman Kevin J. Martin.” As discussed in more detail in the report, the staff found:

- There are instances in which the Chairman manipulated, withheld, or suppressed data, reports, and information. Chairman Martin withheld important and relevant data from the other Commissioners during their consideration of the 13th Annual Video Competition Report in an apparent attempt to enable the Commission to regulate cable television companies. In addition, Chairman Martin’s manipulation of the Second A La Carte Report may have damaged the credibility of the Commission, and certainly undermined the integrity of the staff. Moreover, it was done with the purpose of affecting congressional decision-making, in that it was issued as a report to Congress.

- Important Commission matters have not been handled in an open and transparent manner, thereby raising suspicions both inside and outside the Commission that some parties and issues are not being treated fairly. Chairman Martin’s peremptory reversal of the First A La Carte Report’s conclusions without seeking further public comment or conducting further studies gives the impression that the issue was not handled openly and fairly. Our investigation confirmed this impression.

- The Commission has failed to carry out some important responsibilities. The Commission’s oversight of the Telecommunications Relay Service Fund has been lax at best. The Chairman’s office appears to have ignored evidence that the ratepayers have been overcharged, while the companies providing Telecommunications Relay Service have been overcompensated, potentially by as much as \$100 million per year. In addition, the Commission has failed to submit statutorily required reports to Congress. Finally, the Commission took months to respond to our records request, and many records are still outstanding. The Commission has yet to produce numerous emails and other electronic records covered by our records request.

- Chairman Martin’s heavy-handed, opaque, and non-collegial management style has created distrust, suspicion, and turmoil among the five current Commissioners. Relations among Commissioners are not collegial. Chairman Martin does not afford his fellow Commissioners direct and unfettered access to the Commission staff and their expert advice, thereby hindering the ability of the other Commissioners to carry out the duties of their offices and the work of the Commission.

- Commission staff have not been efficiently managed. Within a few days of taking office, Chairman Martin imposed a major reshuffling of FCC staff throughout the agency. While a certain amount of reorganization is not unprecedented for a new chairman, it was highly unusual in both its breadth (nearly every senior position at the agency changed hands) and its depth (even a number of non-management line staffers found themselves inexplicably re-

assigned). In some instances, senior employees with extensive experience and expertise were reassigned to junior-level positions, a senseless waste of resources. It appears that some important Commission proceedings were delayed as a result.

There is evidence that since our investigation began, Chairman Martin has taken some steps to address these problems. For example, Martin has initiated regular press conferences and publicized hearing agendas in a timely fashion. In addition, it appears that the Commission staff is now being engaged in certain matters where it was largely ignored in the past.

#### THE UNIVERSAL SERVICE FUND

The Committee has continued to conduct ongoing oversight over the Universal Service Fund (USF) which was created by the FCC to help meet the goals of “Universal Service” as mandated by the Telecommunications Act of 1996. Those goals include advancing the availability of telecommunications services to all consumers, including those in low income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas. USF is administered by the Universal Service Administrative Company (USAC).

In early 2007, the Committee announced the reopening of its investigation into the USF program. Committee staff requested several meetings and briefings with the Federal Communications Commission’s Office of Inspector General and USAC. On April 12, 2007, the Committee requested that GAO continue its examination of waste, fraud, and abuse in the E-rate program, and devote special attention to the High Cost program. In June 2008, GAO completed its review of the High Cost program and issued its report “FCC Needs to Improve Performance Management and Strengthen Oversight of the High Cost Program”, finding problems with the oversight of the program as the Committee had suspected.

#### DEPARTMENT OF COMMERCE—INSPECTOR GENERAL

In April 2007, the Committee launched an investigation of Inspector General Johnnie E. Frazier of the Department of Commerce in response to numerous allegations of widespread fraud, waste and abuse within the Office of Inspector General that involved Mr. Frazier and his management team. The allegations included the filing of fraudulent travel vouchers, contracting irregularities, wasteful expenditures, favoritism, pre-selection of Senior Executive Service (SES) candidates, harassment of whistleblowers, and obstruction of justice.

Committee staff issued a comprehensive document request, reviewed thousands of pages of paper and electronic records, and conducted investigative interviews of numerous employees of the Department. As a result of the Committee’s investigation, Inspector General Johnnie Frazier announced his resignation on June 7, 2007, which became effective on June 29, 2007. A number of other senior officials in Frazier’s office implicated in these allegations also resigned shortly after Frazier’s departure. In early 2008, two whistleblowers from the Office of Inspector General who were reassigned because they had questioned the Inspector General’s travel

activities were restored to their previous positions by the incoming Inspector General Todd Zinser, at the insistence of the Committee.

#### DEPARTMENT OF COMMERCE—TRAVEL ABUSE

The Committee referred certain allegations to the Government Accountability Office's forensics investigators to conduct an audit relating to a major renovation project and premium class travel at the Department. After reviewing travel records, including government-issued credit cards of Department employees, GAO's forensic team identified several cases of potential fraudulent use of federal travel funds for non-business reasons and improper use of government credit cards. At the request of the Committee, on September 24, 2008, GAO issued a "referral letter" to the Department's Office of Inspector General to investigate these matters in lieu of an official report to the Committee. Based on this work, the Committee has continued to receive additional allegations concerning travel abuses at the Department and is continuing to monitor this matter.

#### DEPARTMENT OF COMMERCE—OTHER

The Committee conducted oversight of various other programs and Federal responsibilities of the Department of Commerce. For example, the Committee did considerable work monitoring the progress of the National Telecommunications and Information Administration's (NTIA) digital television transition (DTV) program, and its billion-dollar public safety interoperability grant program. The Committee reviewed the Department's and NTIA's relationship and interaction with the Internet Corporation for Assigned Names and Numbers (ICANN), the organization that coordinates the domain name system and Internet protocols and is responsible for ensuring that domain registry agreements are made in a fair and open process. In addition, the Committee worked to monitor developments in the Department of Commerce's National Oceanic and Atmospheric Administration, including oversight of the management of the National Hurricane Center.

#### TOURISM AND PUBLIC ACCESS TO PUBLIC LANDS IN WASHINGTON, D.C.

In July 2007, as part of its jurisdiction over tourism and trade, the Committee opened an inquiry with regard to findings issued in a report by the Department of Interior's (Department) Office of Inspector General, entitled, "Private Use of Public Lands, National Park Service and Bureau of Land Management" (Report No. W-IN-MOA-008-2005). The Office of Inspector General found that the National Park Service (NPS) permitted private clubs, such as the Washington Canoe Club (WCC), to monopolize and use public lands to the exclusion of the general public. In addition to this report, the Subcommittee received allegations concerning potentially discriminatory practices by this club in regard to its membership. Accordingly, the Committee, among other things, questioned the appropriateness of the Department's issuance of "special use" permits to private clubs to use public land on an ongoing basis without any apparent oversight of the activities and membership practices of the private clubs. On July 16, 2007, the Committee issued a doc-

ument request, and it received an initial briefing from the Department and NPS staff in August 2007.

On January 25, 2008, the Committee wrote to the Department indicating that NPS failed to provide the Committee with requested information regarding any actions that NPS had taken or were planning to take in response to the OIG audit report, and requested records to determine the progress made by NPS. In the course of the inquiry, the Department and NPS admitted to Committee staff that NPS did not have any legal authority to issue “special use” permits to WCC as it had done in the past for decades—even calling the issuance of these permits “illegal.” Although the investigation was unable to prove discriminatory practices, NPS authorities admitted that they had been lax at overseeing the activities or even inspecting the facilities of the club. They claimed that though they would not tolerate discriminatory practices in the selection of members for the club, they had no system set up to even know what membership policies were there.

Through subsequent briefings and discussions with NPS, the Committee was assured that NPS had undertaken a major assessment to evaluate each permit issued to private entities that use public land. In addition, NPS said it would, among other things, move expeditiously to open park lands subject to long-term permits and grant public access through appropriate and legal authorization, and audit 20 percent of the parks each year to ensure that special use programs comply with applicable regulations.

#### DEATHS FROM KITCHEN RANGE TIPOVERS

Early in 2007, the Subcommittee began an investigation into problems with kitchen ranges tipping over and causing serious injuries, including death. On March 5, 2007, Chairman Dingell and Subcommittee Chairman Stupak wrote the Chairman of the Consumer Product Safety Commission (CPSC) requesting extensive data and information on incidents involving range tipovers. The Subcommittee found that there are, in fact, very serious problems with the stability of free-standing kitchen ranges as sold and installed in the United States. Moreover, this has been a problem at least since 1980 and it has continued up to the present.

According to the CPSC’s data, since 1980 at least 33 people have been reported killed by kitchen stoves tipping over on them. Nearly 60 percent of those killed were small children. In addition to these deaths, at least another 51 people—again, mostly small children—were injured, most of them suffering severe burns, when stoves tipped over on them.

The Subcommittee’s investigation prompted the leading retailer of kitchen ranges to agree to ensure the installation of stabilizing brackets for all kitchen ranges it sells. In addition, consumer protection advocates believe that national publicity resulting directly from the Subcommittee’s investigation has helped save lives by alerting consumers to the risk involved and the necessity for installing stabilizing brackets.



HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO  
HOMELAND AND NATIONAL SECURITY

## HEARINGS

CONTINUING SECURITY CONCERNS AT LOS ALAMOS NATIONAL  
LABORATORY—PART I

Over the past two years, the Subcommittee has held three hearings examining security at the Department of Energy's national labs, mostly relating to security at Los Alamos National Lab (LANL). Each hearing examined an array of concerns surfaced by both internal and external audits and investigations relating to both how LANL secures classified and other sensitive information and its ability to mitigate against all forms of physical intrusion including a terrorist attack. As LANL has had longstanding security problems for more than a decade, the Subcommittee continued its direct oversight of its activities including requesting a number of comprehensive audits and reviews by GAO.

The first hearing on January 30, 2007, dealt with the physical security of the lab (often referred to as "guns, guards, and gates") and those related to the security of information, which includes unclassified and classified cyber networks. It reviewed the storage and safeguarding of classified and sensitive documents and other forms of electronic media, often referred to as Classified Removable Electronic Media (CREM).

The hearing was in response to an October of 2006 incident wherein the Los Alamos County Police responded to a call at the home of a former Los Alamos National Laboratory (LANL) subcontractor employee. During the search of the former employee's home, police found and seized computer flash drives that contained a number of classified documents from one of the LANL's secure vaults. In addition, police found and seized several hundred pages of classified documents. Upon learning of these events, the Department of Energy (DOE) Secretary requested that—in addition to other inquiries—the Inspector General initiate a review to determine whether LANL and the Department had adequate safeguards in place to protect against this and other potential cyber security events, and specifically to examine the facts surrounding this case.

Security, both physical and cyber (computer networks and classified removable electronic media or "CREM") had been a concern at this lab for more than a decade. That most recent event represented yet another breach and potential damage to some of the Nation's most important information. The matter discussed at this hearing closely followed other events that the Subcommittee had been investigating. For example, only two years previous to this hearing LANL was plagued by a series of incidents involving safety and mishandling of classified information, resulting in hearings by the Subcommittee. Those security breaches prompted then-Lab Director Peter Nanos to suspend all work activities for the LANL in July 2004, and prompted Subcommittee Members to visit LANL for a briefing on new security procedures involving classified material and security. LANL's shut down lasted nearly seven months at a cost to the taxpayer of approximately \$367 million.

CONTINUING SECURITY CONCERNS AT LOS ALAMOS NATIONAL  
LABORATORY—PART II

On April 20, 2007, the Subcommittee held its second hearing looking at security at LANL. Its purpose was to review the findings of two Task Forces established by the Secretary of Energy in response to prior security breaches at the lab. One focused on Personnel Security (related to how contractors and other DOE employees had been granted security clearances) and the second focused on Cyber Security.

The first report was entitled Personnel Security Task Force: The Secretary of Energy Task Force Review of the Departmental Personnel Security Program (February 2007), and examined whether there were any other security clearance approvals where individuals were using drugs at the time their clearance was being adjudicated. The task force found that, of the 453 security clearances processed at the National Nuclear Security Administration (NNSA) Service Center between June 2001—June 2002, that involved past use of illegal drugs, some had admitted to illegal drug use in the 30 days prior to approval of their security clearance. Eighteen (18) others had derogatory information that has resulted in a re-evaluation of their status.

In response, on April 2, 2007, the Deputy Secretary issued a memo to the Under Secretaries for Energy and Science, and the National Nuclear Security Administration (NNSA) Administrator mandating a number of changes relating to security clearances. These included: (1) a review of all security clearances granted in the past 5 years to individuals who had used drugs within 12 months prior to receiving their clearance; (2) Denial of security clearances for individuals admitting use of drugs in the 12 months prior to their application; (3) Federal and contractor employees with clearances would be subject to pre-employment random drug testing, and (4) any substantiated or admitted drug involvement by individuals with a security clearance to result in termination of the clearance.

For this hearing, the Subcommittee also examined a second report issued by the Secretary entitled “Cyber Security Task Force: The Report to the Secretary of the Ad Hoc Committee to Review the Cyber Related Recommendations in the Inspector General’s Special Inquiry Report to the Secretary on the Recent Security Incident at the Los Alamos National Laboratory (February 28, 2007).” This report made a number of recommendations related to security at the labs. These included disabling USB ports in computers that could permit unauthorized diversion or theft of classified information by January 15, 2007; securing classified computer racks if the USB ports were not otherwise secured; limiting computer access to those who specifically require it; updating classified information security plans; and finally issuing new cyber security policy.

The Subcommittee examined in detail these recommendations, the plans the Department had for implementing them (including key implementation milestones) and the additional measures needed to adequately safeguard security at the labs. The Subcommittee revealed that the DOE’s program to penalize violations of security

regulations had been hobbled at Los Alamos because the DOE had omitted critical provisions in the contract with its contractor.

REVIEW OF CONTINUING SECURITY CONCERNS AT DOE'S NATIONAL  
LABS

The Subcommittee held its third hearing on September 25, 2008, regarding ongoing security issues at DOE's national laboratories (labs) including LANL. Preliminary reports have suggested that LANL—which has traditionally been one of the most problematic labs from a security perspective in the DOE complex—has reportedly made noteworthy progress in addressing some key security weaknesses once listed as major concerns by outside auditors, including GAO and DOE's Office of Safeguards and Security. Moreover, as was reported to staff by lab officials, the audits and reviews requested by the Subcommittee have assisted LANL in formulating blueprints to address ongoing security issues. Though LANL appears to have made measurable improvements in key areas relating to some aspects of physical and information security (particularly in the control of classified documents and other forms of electronic media), the Subcommittee will continue its oversight to encourage forward progress.

Finally, in addition to physical security, the Subcommittee also examined several issues related to cyber security at the labs. Some of these were related to issues first raised in the April 20, 2007, hearing, while additional issues were related to independent work being conducted by DOE's Office of Inspector General (DOE OIG) and GAO).

The "yellow network," which is connected to the Internet, contains unclassified but sensitive information, including diverse research data, business proprietary information, unclassified controlled nuclear information, naval nuclear propulsion information, export control information, the military critical technology list, confidential foreign government information, personally identifiable information (including names, aliases, Social Security numbers), and nuclear reactor safeguards information.

According to related work conducted by the GAO and others, due to the nature of research and development conducted at LANL, the information on the unclassified network could present "a valuable target for foreign governments, terrorists, and industrial spies." This hearing in closed session examined how secure this network was and whether additional protections were needed to safeguard it from potential cyber threats. Through its own investigation and based on the audits of the GAO and DOE OIG, the Subcommittee Members concluded that additional security controls were necessary to ensure the protection of sensitive information contained and transmitted over this network.

At the conclusion of the 110th Congress, the Subcommittee had requested that GAO and DOE OIG conduct additional work examining security of the unclassified network. Additionally, ongoing work involving how the classified "red" network was being protected at selected weapons labs was also continuing.

NUCLEAR TERRORISM PREVENTION: STATUS REPORT ON THE FEDERAL GOVERNMENT'S ASSESSMENT OF NEW RADIATION DETECTION MONITORS

Since the attacks of September 11, 2001, the Committee has been investigating the capacity of the Department of Homeland Security (DHS) to target and inspect sea cargo containers bound for the United States from foreign ports in order to prevent possible smuggling of nuclear weapons or radiological materials. On September 18, 2007, the Committee held a hearing entitled, "Nuclear Terrorism Prevention: Status Report on the Federal Government's Assessment of New Radiation Detection Monitors," which reviewed the GAO's critical assessment of the Domestic Nuclear Detection Office's (DNDO) efforts to test, certify, and deploy a new generation of radiation portal monitors known as "Advanced Spectroscopic Portals" (ASPs).

GAO found that the tests failed to assess the machine's blind spots, and that the vendors were given key information which allowed them to calibrate their machines to perform better in advance of the performance tests. Following the hearing, the Subcommittee requested that DNDO conduct further tests before making a planned \$1.2 billion purchase of the ASP technology. Meanwhile U.S. Customs and Border Protection flagged significant "functionality" problems with the new ASP machines, and refused to purchase them until they were fixed.

As the result of the Subcommittee's investigation, the Homeland Security Appropriations Act FY08 prohibited DNDO from making full scale procurement until it conducted additional testing, and the Secretary certified that these new machines provided a "significant increase in operational effectiveness" and the National Academy of Sciences concurred. This action saved taxpayers \$1.2 billion by blocking the purchase of machinery that was not proven to be ready for deployment at our ports and border crossings. This restriction was re-imposed in the FY09 appropriations act.

GERMS, VIRUSES, AND SECRETS: THE SILENT PROLIFERATION OF BIO-LABORATORIES IN THE UNITED STATES

On October 4, 2007, the Subcommittee held a hearing to examine the risks associated with the recent rapid proliferation of high-containment biological research laboratories in the United States. The hearing featured testimony from GAO with regard to their extensive investigation of high-containment bio-research laboratories. The Subcommittee also received testimony from the principal Government agencies involved in regulating these laboratories: CDC and the National Institutes of Health (NIH). Also testifying were Texas A&M University, which owns a high-containment laboratory; the Center for Biosecurity of the University of Pittsburgh Medical Center; the Center for Arms Control and Non-Proliferation; and the Sunshine Project. The Subcommittee's Investigation revealed that:

- No Federal agency knows for sure how many high-containment bio-laboratories there are in the United States, but there appear to be more than 600 Bio-Safety Level 3 (BSL-3) laboratories.
- The number of Bio-Safety Level 4 (BSL-4) laboratories in the U.S. has grown from 2 in 1996 to 12 by 2008. BSL-4 labs handle

the most deadly pathogens, for which there is no known cure. As of 2007, there were six in operation and another seven slated to open by 2008 over the next few years. The need for this extraordinary increase in capacity, however, is unclear. Nevertheless, over the last five years, the National Institute of Allergy and Infectious Diseases, an institute within NIH, has spent more than \$1 billion on new construction and some \$3 billion on biodefense research.

- No single Federal agency has overall responsibility for the regulation of laboratory biological research and not all dangerous pathogens are regulated. The majority of direct Federal regulation of biological research is limited to “select agents.” The largest part of all other federally funded biological research in high-containment laboratories is regulated through contractual obligations. Federal regulations and guidelines issued by separate agencies, including CDC and NIH, often overlap and are often conflicting or ambiguous.

- The CDC has received 105 incident reports from high-containment laboratories since 2003. These have ranged from reports of missing inventory to the accidental infection of laboratory workers. This may understate the true number of incidents, however, because, apart from select agents, there is no standard reporting system for accidents involving releases or infections. In addition, laboratory researchers fear that reporting incidents will result in sanctions imposed either internally or by Government agencies.

- NIH says there are serious questions as to whether there are enough personnel with proper training to work in high-containment biological laboratories. Most training of laboratory personnel is conducted through mentoring; there is no standard training or certification program for scientists working in high-containment labs.

#### COMBATING NUCLEAR PROLIFERATION: THE EFFECTIVENESS OF THE DEPARTMENT OF ENERGY’S INITIATIVES FOR PROLIFERATION PREVENTION (IPP) PROGRAM

On January 23, 2008, the Subcommittee held a hearing to examine whether a 14-year-old Department of Energy (DOE) non-proliferation program which provides funding to re-employ Soviet-era weapons scientists and engineers in peaceful activity needs to be reformed or phased out.

After the collapse of the Soviet Union in 1991, many of its weapons scientists and engineers suffered significant cuts in pay or lost their government-supported work, and there was a concern that these scientists would be vulnerable to recruitment by rogue nations and terrorist groups. DOE has used a two-pronged strategy to stem so-called “brain drain” proliferation. Initially, DOE directly funded Soviet-era scientists to carry out non-military research and development work. Later, DOE sought to match U.S. industrial partners with scientists at Russian institutes to work on the commercialization of products and services.

An audit by GAO found that 54 percent of the scientists and engineers hired in the IPP program are not even Soviet-era WMD scientists. GAO also found that DOE is funding the recruitment and hiring of young scientists who never worked on Soviet-era WMD programs. This is contrary to the program’s original intent—to reduce the proliferation risk posed by Soviet-era scientists. Finally,

even though Russia is enjoying significant prosperity from oil and gas exports, DOE was not requiring Russia to contribute to these scientist engagement projects through cost sharing.

After the hearing, the Subcommittee obtained documents showing that at least two nuclear institutes receiving DOE funding were also working on the Iranian nuclear power project at Buhsher. In response to these findings, the House Energy and Water Development Appropriations bill for fiscal year 2009 directed that no institutes be funded who are working on the Buhsher reactor, directed that DOE prepare an “exit” plan for the program, and cut the IPP program funding in half. In addition, on October 2, 2008, DOE announced it was implementing a cost-sharing arrangement with Russia, is phasing out approximately half of its projects because the scientists did not pose a proliferation threat, and it terminated work at the institutes working on the Buhsher reactor project in Iran.

#### GERMS, VIRUSES, AND SECRETS: GOVERNMENT PLANS TO MOVE EXOTIC DISEASE RESEARCH TO THE MAINLAND UNITED STATES

On May 22, 2008, the Subcommittee on Oversight and Investigations held the second in a series of hearings on the proliferation of biological research laboratories. This hearing specifically reviewed the Department of Homeland Security’s (DHS) proposal to close the Plum Island Animal Disease Center (PIADC or “Plum Island”), located on Plum Island, NY, and replace it with a new laboratory located on the continental U.S., to be called the National Bio- and Agro-Defense Facility (NBAF). The majority of the research at Plum Island is concentrated on foot-and-mouth disease, which is very highly contagious, and which Federal law has restricted to Plum Island for 60 years. The DHS proposal to move foot-and-mouth disease to the continental U.S. raises policy questions with very significant implications for livestock health and the national economy.

The Subcommittee heard testimony from GAO, DHS, USDA, and the Plum Island Director. Additional witnesses included four of the leading farming and livestock associations whose members have a direct interest in these issues; and experts on foot-and-mouth disease and high containment laboratory security. The Subcommittee’s investigation revealed that:

- The DHS proposal to transfer foot-and-mouth disease from Plum Island to the continental U.S. is highly controversial. The Subcommittee’s survey of livestock and farmers’ associations across the country showed only four livestock associations supported it, while nine opposed it, and another dozen wanted to see a thorough risk assessment performed before they took a position on it. As of the date of the hearing, DHS still had not performed such a risk assessment.

- A release of foot-and-mouth disease in the U.S. would be devastating. Foot-and-mouth disease is among the most highly contagious diseases in the world. The 2001 outbreak of foot-and-mouth in the United Kingdom caused at least \$16 billion in damage, devastated the economy, and nearly brought down the Government. U.S. experts estimate that a similar release in the U.S. could be even more destructive. Senator Pat Roberts has said that an out-

break of the disease in the U.S. could ultimately cause massive food shortages and rioting.

- There is a serious question as to whether DHS has the expertise, understanding, and technical capability to conduct animal and zoonotic disease research. All of the livestock and farmers' organizations that testified at the hearing stated that USDA, rather than DHS, should be in charge of animal disease research.

- The DHS Science and Technology Directorate has thus far failed to adequately assess the health and economic risks, potential environmental impacts, and costs and benefits of the proposal to close Plum Island and transfer foot-and-mouth disease to the continental U.S. While a draft environmental impact statement was in progress at the time of the hearing, DHS internal documents discovered by the Subcommittee in the course of its investigation revealed that it would cost more to build and operate a new lab on the mainland than it would to renovate the existing lab on Plum Island.

#### INVESTIGATIVE ACTIVITIES

##### ONGOING NATIONAL SECURITY CONCERNS REGARDING CYBER SECURITY

The Subcommittee spent considerable effort examining how well the Department of Energy, including the nation's key weapons labs, were positioned to prevent unauthorized cyber intrusions and data theft. These efforts were the subject of several hearings and are discussed in detail elsewhere in this report. Nonetheless, because of ongoing concerns raised by DOE officials and other cybersecurity experts about the federal government's vulnerability in this area generally, the Subcommittee began discussions with GAO to develop plans to broaden its vulnerability assessment of other key agencies and Departments under the Committee's jurisdiction. Of particular concern are those agencies whose IT system was demonstrated to have profound weaknesses in the course of the Subcommittee's other investigations. During the conclusion of the 110th Congress, GAO had begun to scope and plan important cyber-related assessments of key agencies and Departments, including the possibility of conducting "red team" type intrusions to assess vulnerabilities.

##### BIO-LABORATORY SECURITY

The Subcommittee's hearings and ongoing investigation of the proliferation of high-containment bio-laboratories has revealed problems with the physical security of these labs and the training of laboratory workers. Recent revelations regarding the Federal Bureau of Investigation's examination of the 2001 anthrax attacks has underscored the importance of this issue. On August 11, the Committee sent a letter to the President of the U.S. asking him to suspend the design and construction of new high-containment labs pending a thorough review of all existing labs and all proposals to construct new labs. The President has yet to formally respond to the Committee's request.

In addition, in response to a request by Chairman Dingell and Subcommittee Chairman Stupak, GAO conducted a study of perim-

eter security at five BSL-4 labs in the U.S. In its report, “Biosafety Laboratories: Perimeter Security Assessments of the Nation’s Five BSL-4 Laboratories,” (issued September 17, 2008), GAO found that two out of the five labs had a significant lack of perimeter security controls. Moreover, regulations issued by the CDC Select Agent Program do not require specific perimeter security controls.

The Subcommittee intends to continue this investigation in the next Congress with an eye toward possible legislation.

#### INTERNATIONAL PROLIFERATION OF HIGH-CONTAINMENT BIO-LABORATORIES

We are continuing our investigation of the recent worldwide proliferation of high-containment bio research laboratories, including Bio-Safety Level 4 labs, some of which may have been funded by the U.S. The issues include where these labs are being built; why these labs are being built; who is paying for them; and what are the risks associated with their operation. As part of this investigation, GAO visited high containment labs in the United Kingdom, Denmark, and Germany, and regulatory agencies in the United Kingdom, France, and Germany. We intend to continue this investigation in the next Congress.

#### INTERNATIONAL PIRACY AND ITS IMPACT ON ENERGY TRANSPORT, SUPPLIES, AND COMMERCE

During the latter half of 2008, a number of press reports have surfaced suggesting that piracy—particularly off the coast of Somalia—has greatly increased, threatening to directly affect U.S. shipping interests. Significant amounts of crude oil, chemicals and other important commodities transit the waters off the Somali coast, particularly through the Gulf of Aden. In November 2008, one of the world’s largest crude transport vessels, the *Sirius Star*, carrying 2 million barrels of crude oil was successfully hijacked. It and its crew is currently being held for \$25 million ransom.

Subsequent to this event, concerns have been expressed to the Subcommittee that the increased rate of piracy in this region and elsewhere raises potential energy security issues along with potential environmental and homeland security concerns as well. Specifically, shipping interests have communicated to the Subcommittee that there is not a sufficiently robust or coordinated federal plan on how to deal with what appears to be an emerging threat for key interests in this region. Consequently, the Subcommittee began discussions with senior officials from the Department of Defense, Department of Energy, United States Coast Guard and key affected shipping industries to understand the unfolding nature of this problem, the threat it may have on U.S. interests and what existing solutions are being explored to eliminate or mitigate the risk.

On a preliminary basis, the Subcommittee has found there is ample room for improving coordination among U.S. agencies handling this matter. Moreover, some shippers, particularly those carrying highly vulnerable cargos such as crude oil and chemicals have expressed concern that more assistance is needed by the U.S. and other foreign governments specifically because their vessels are particularly difficult to defend. Additionally, shippers have also expressed concerns about arming their own vessels with private secu-



rity forces (an option currently being discussed) and the liability issues surrounding such a move. Because piracy in this region appears to be a growing problem, it is likely that this investigation will carry forward into the 111th Congress.

#### THE NATIONAL BIOSURVEILLANCE INTEGRATION SYSTEM (NBIS)

The Subcommittee is investigating the management, operation, and activities of DHS' National Biosurveillance Integration System (NBIS). NBIS was created by DHS as a means of integrating biosurveillance information across the entire government. The purpose of our investigation is to assess the adequacy of DHS' biosurveillance efforts, the extent to which biosurveillance systems have been integrated thus far, and whether biosurveillance resources are being effectively used. According to unofficial sources, the NBIS is in fact a hollow shell that contributes little if anything to the DHS mission and duplicates efforts of the Department of Health and Human Services, Centers for Disease Control and other government agencies. Records were received in response to our initial record request and are currently under review. The next steps are site visits, interviews, and additional records requests.

#### DEPARTMENT OF DEFENSE—V-22 OSPREY INVESTIGATION

In July 2007, the Committee received allegations from a whistleblower and former Management Systems Deputy of the United States Air Force relating to the V-22 Osprey tilt-rotor aircraft. The whistleblower alleged that he participated in an internal investigation of the V-22 which found the aircraft has fundamental technical problems that threaten its airworthiness and combat effectiveness. Committee staff reviewed several documents, spoke with a former program insider who corroborated the account, and met with GAO staff to discuss possible problems with V-22 program.

On October 30, 2007, the Committee asked GAO to review a number of issues regarding the performance of the V-22 Osprey combining this with a similar request from Chairman Henry A. Waxman, House Committee on Oversight and Government Reform.

On June 2, 2008, GAO advised Committee staff via email that its review team had been assembled, and it would begin its inquiry into four areas: (1) What is the current estimate of cost, schedule, and quantity for the program, and how do these estimates compare with original estimates?; (2) Has the current V-22 design demonstrated that it has met its key performance parameters and other critical requirements?; (3) What key testing, safety, and production quality issues remain open, and to what extent do they affect the V-22's ability to conduct its planned missions?; and (4) How is the V-22 performing in theater, especially regarding mission capability rates and logistics burden?

GAO plans to visit with a V-22 unit that recently returned from Iraq to determine what information is available to address the fourth question.

#### HEARINGS HELD

*Continuing Security Concerns at Los Alamos National Laboratory—Part I.*—Oversight hearing on continuing security lapses and

lax security protocol at the Department of Energy's Los Alamos National Laboratory in New Mexico. Hearing held on January 30, 2007. PRINTED, Serial No. 110-1.

*Adequacy of FDA Efforts to Assure the Safety of the Drug Supply—Part I.*—Oversight hearing on breakdowns in FDA processes for approving new drugs and for considering new safety information about drugs already on the market. Hearing held on February 13, 2007. PRINTED, Serial No. 110-5.

*Post Katrina Health Care: Continuing Concerns and Immediate Needs in the New Orleans Region.*—Oversight hearing on public health conditions in the post-Katrina New Orleans area. Hearing held on March 13, 2007. PRINTED, Serial No. 110-17.

*Adequacy of FDA Efforts to Assure the Safety of the Drug Supply—Part II.*—Oversight hearing on whether FDA is fulfilling its mandate to protect the American people from drugs whose risks outweigh their benefits. Hearing held on March 22, 2007. PRINTED, Serial No. 110-5.

*Continuing Security Concerns at Los Alamos National Laboratory—Part II.*—Oversight hearing on continuing security lapses and lax security protocol at the Department of Energy's Los Alamos National Laboratory in New Mexico. Hearing held on April 20, 2007. PRINTED, Serial No. 110-1.

*Diminished Capacity: Can the FDA Assure the Safety and Security of the Nation's Food Supply?—Part I.*—Oversight hearing on the issue of food safety as it pertains to both foods for human consumption and for pets, with focus on the victims of E. coli in spinach and lettuce, Salmonella in peanut butter, and contaminated wheat gluten in pet food. Hearing held April 24, 2007. PRINTED, Serial No. 110-33.

*2006 Prudhoe Bay Shutdown: Will Recent Regulatory Changes and BP Management Reforms Prevent Future Failures?*—Oversight hearing on Prudhoe Bay, the Nation's largest and most strategic oil field, its temporary shutdown due to corrosion and its subsequent economic effects. Hearing held on May 16, 2007. PRINTED, Serial No. 110-46.

*Gasoline Prices, Oil Company Profits and the American Consumer.*—Oversight hearing on examining the factors underlying the sharp rise in gasoline prices, the effects of such increases, and the role of the Federal Trade Commission (FTC) in addressing this problem. Hearing held on May 22, 2007. PRINTED, Serial No. 110-51.

*Poisoned Patriots: Contaminated Drinking Water at Camp Lejeune.* Oversight hearing on issues arising from the extensive, high-level contamination of drinking water at U.S. Marine Corps Base Camp Lejeune. Hearing held on June 12, 2007. PRINTED, Serial No. 110-56.

*Predatory Sales Practices in Medicare Advantage.*—Oversight hearing on the aggressive, and often fraudulent, sales practices that have arisen in the wake of passage of the Medicare Modernization Act of 2003. Hearing held on June 26, 2007. PRINTED, Serial No. 110-60.

*Diminished Capacity: Can the FDA Assure the Safety and Security of the Nation's Food Supply?—Part II.*—Oversight hearing on the effects of the proposed reorganization of the Office of Regu-

latory Affairs and the attendant laboratory closures on the ability of FDA to accomplish its mandate to assure the food and drug supply is safe for the people of the United States. Hearing held on July 17, 2007. PRINTED, Serial No. 110–33.

*Post Katrina Health Care: Progress and Continuing Concerns—Part II.*—Oversight hearing on public health conditions in the post-Katrina New Orleans area. Hearing held on August 1, 2007. PRINTED, Serial No. 110–62.

*Nuclear Terrorism Prevention: Status Report on the Federal Government's Assessment of New Radiation Detection Monitors.*—Oversight hearing on the GAO's assessment of the Domestic Nuclear Detection Office's efforts to test, certify, and deploy a new generation of radiation portal monitors, known as "Advanced Spectroscopic Portals." Hearing held on September 18, 2007. PRINTED, Serial No. 110–63.

*Germs, Viruses, and Secrets: The Silent Proliferation of Bio-Laboratories in the United States.*—Oversight hearing on risks associated with the rapid proliferation of high-containment biological research laboratories in the United States. Hearing held on October 4, 2007. PRINTED, Serial No. 110–70.

*Diminished Capacity: Can the FDA Assure the Safety and Security of Our Nation's Food Supply?—Part III.*—Oversight hearing on the safety of food imported into the United States and the adequacy of the efforts of FDA and USDA to protect Americans from unsafe, imported food. Hearing held on October 11, 2007. PRINTED, Serial No. 110–33.

*NASPER: Why Has the National All Schedules Prescription Electronic Reporting Act Not Been Implemented?*—Oversight hearing on the implementation of the National All Schedules Prescription Electronic Reporting Act of 2005, Public Law 109–60. Hearing held on October 24, 2007. PRINTED, Serial No. 110–73.

*FDA Foreign Drug Inspection Program: A System at Risk.*—Oversight hearing on the ability of the FDA to monitor the safety and efficacy of drugs imported from overseas. Hearing held on November 1, 2007. PRINTED, Serial No. 110–74.

*Diminished Capacity: Can the FDA Assure the Safety and Security of the Nation's Food Supply?—Part IV.*—Oversight hearing on decisions by FDA and USDA to allow meat and seafood to be packaged in a modified atmosphere containing carbon monoxide. Hearing held on November 13, 2007. PRINTED, Serial No. 110–33.

*Energy Speculation: Is Greater Regulation Necessary to Stop Price Manipulation?*—Oversight hearing on whether more effective regulation is needed to prevent speculators in the futures and derivatives markets from manipulating oil, natural gas, and other energy prices, and to examine the regulatory roles of the Commodity Futures Trading Commission and the Federal Energy Regulatory Commission in preventing manipulation. Hearing held on December 12, 2007. PRINTED, Serial No. 110–78.

*Combating Nuclear Proliferation: The Effectiveness of the Energy Department's Initiatives for Proliferation Prevention (IPP) Program.*—Oversight hearing on whether a DOE program, re-employing Soviet-era weapons scientists and engineers in peaceful activity as a means to prevent scientist "brain drain" to terrorist organizations or countries of proliferation concern, needs to be reformed or

phased out. Hearing held on January 23, 2008. PRINTED, Serial No. 110–82.

*Science and Mission at Risk: FDA's Self-Assessment.*—Oversight hearing on the FDA Science Board report entitled, “FDA Science and Mission at Risk: Report of the Subcommittee on Science and Technology.” Hearing held on January 29, 2008. PRINTED, Serial No. 110–83.

*Ketek Clinical Study Fraud: What Did Aventis Know?*—Oversight hearing on the role of Aventis (now called Sanofi-Aventis) in failing to adequately monitor a pivotal clinical trial, ultimately rejected by FDA, as fraudulent. Hearing held on February 12, 2008. PRINTED, Serial No. 110–87.

*Contaminated Food: Private Sector Accountability.*—Oversight hearing on companies which have produced dangerous, contaminated food and the examination of how factors within the private sector, and the effects of lax regulation, contribute to outbreaks of food-borne illnesses. Hearing held on February 26, 2008. PRINTED, Serial No. 110–92.

*Regulatory Failure: Must America Live with Unsafe Food?*—Oversight hearing on of lax regulation, contributing to outbreaks of food-borne illnesses in food supply, focusing on the role of the Nation's primary regulators, FDA and USDA. Hearing held on March 12, 2008. PRINTED, Serial No. 110–92.

*Selling the Department of Energy's Depleted Uranium Stockpile: Opportunities and Challenges.*—Oversight hearing on whether DOE has legal authority to auction/barter the depleted uranium, and to evaluate whether DOE is able to maximize taxpayer benefits given that it must negotiate a sole source contract with the Nation's only uranium enrichment plant operator. Hearing held on April 3, 2008. PRINTED, Serial No. 110–103.

*FDA's Foreign Drug Inspection Program: Weaknesses Place Americans at Risk.*—Oversight hearing on how FDA plans to address the multitude of weaknesses evident in FDA's effort to protect Americans from unsafe drugs made abroad. Hearing held on April 22, 2008. PRINTED, Serial No. 110–107.

*The Heparin Disaster: Chinese Counterfeits and American Failures.*—Oversight hearing on the circumstances surrounding the catastrophe caused by the contamination of the drug heparin. Hearing held on April 29, 2008. PRINTED, Serial No. 110–109.

*Direct-to-Consumer Advertising: Marketing, Education or Deception?*—Oversight hearing examining potentially misleading and deceptive tactics used in direct-to-consumer advertisements for prescription pharmaceutical products. Hearing held on May 8, 2008. PRINTED, Serial No. 110–114.

*In the Hands of Strangers: Are Nursing Home Safeguards Working?*—Oversight hearing on examining how Federal and State enforcement of Federal quality-of-care standards can protect nursing home residents in all nursing homes, and whether the new financial models for nursing home chains warrant new approaches to quality enforcement. Hearing held on May 15, 2008. PRINTED, Serial No. 110–116.

*Germs, Viruses, and Secrets: Government Plans to Move Exotic Disease Research to the Mainland U.S.*—Oversight hearing on the Department of Homeland Security's proposal to close the Plum Is-

land Animal Disease Center, located on Plum Island, NY, and replace it with a new laboratory located on the continental U.S., to be called the National Bio- and Agro-Defense Facility. Hearing held on May 22, 2008. PRINTED, Serial No. 110–120.

*American Lives Still at Risk: When Will FDA’s Food Protection Plan Be Fully Funded and Implemented?*—Oversight hearing on what progress FDA has made in implementing its Food Protection Plan. Hearing held on June 12, 2008. PRINTED, Serial No. 110–126.

*Energy Speculation: Is Greater Regulation Necessary to Stop Price Manipulation?—Part II.*—Oversight hearing on whether market speculation is inflating the price of crude oil above underlying supply and demand, and whether Congress needs to improve regulatory oversight. Hearing held on June 23, 2008. PRINTED, Serial No. 110–128.

*Long-Term Care Insurance: Are Consumers Protected for the Long Term?*—Oversight hearing on the unique challenges facing consumers who purchase long-term care insurance policies and need to use their benefits. Hearing held on July 24, 2008. PRINTED, Serial No. 110–140.

*The Recent Salmonella Outbreak: Lessons Learned and Consequences to Industry and Public Health.*—Oversight hearing on CDC and FDA efforts to identify the cause of the national Salmonella outbreak; to examine a portion of the Bioterrorism Act of 2002, which required FDA to establish procedures to trace and track food commodities; to examine proposals developed by States and industries to establish traceability systems. Hearing held on July 31, 2008. PRINTED, Serial No. 110–142.

*Science Under Siege: Scientific Integrity at the Environmental Protection Agency.*—Oversight hearing on the scientific integrity at the U.S. Environmental Protection Agency. Hearing held on September 18, 2008. PRINTED, Serial No. 110–149.

*Review of Continuing Security Concerns at Department of Energy’s National Labs.*—Oversight hearing on the vulnerability of DOE national laboratory computer systems containing unclassified sensitive information, the status of laboratory physical security measures, and new security-related issues at the Lawrence Livermore National Laboratory exposed by a DOE site assessment that tested the lab’s ability to deter a physical attack. Hearing held on September 25, 2008. PRINTED, Serial No. 110–152.

#### GAO AND CRS REPORTS AND TESTIMONY REQUESTED BY THE SUBCOMMITTEE

##### GAO REPORTS

Nuclear Safety: Department of Energy Needs to Strengthen Its Independent Oversight of Nuclear Facilities and Operations. GAO–09–61, October 23, 2008.

Federal Research: Opportunities Exist to Improve the Management and Oversight of Federally Funded Research and Development Centers GAO–09–15, October 8, 2008.

Nuclear Security: Los Alamos National Laboratory Faces Challenges In Sustaining Physical and Cyber Security Improvements. GAO–08–1180T, September 25, 2008.

Drug Safety: Better Data Management and More Inspections Are Needed to Strengthen FDA's Foreign Drug Inspection Program. GAO-08-970, September 22, 2008.

EPA Science: New Assessment Process Further Limits the Credibility and Timeliness of EPA's Assessments of Toxic Chemicals. GAO-08-1168T, September 18, 2008.

Environmental Enforcement: EPA Needs to Improve the Accuracy and Transparency of Measures Used to Report on Program Effectiveness. GAO-08-1111R, September 18, 2008.

Biosafety Laboratories: Perimeter Security Assessments of the Nation's Five BSL-4 Laboratories. GAO-08-1092, September 17, 2008.

Hurricane Katrina: Trends in the Operating Results of Five Hospitals in New Orleans before and after Hurricane Katrina. GAO-08-681R, July 17, 2008.

Long-Term Care Insurance: Oversight of Rate Setting and Claims Settlement Practices. GAO-08-712, June 30, 2008.

Los Alamos National Laboratory: Long-Term Strategies Needed to Improve Security and Management Oversight. GAO-08-694, June 13, 2008.

Telecommunications: FCC Needs to Improve Performance Management and Strengthen Oversight of the High-Cost Program. GAO-08-633, June 13, 2008.

Federal Oversight of Food Safety: FDA Has Provided Few Details on the Resources and Strategies Needed to Implement its Food Protection Plan. GAO-08-909T, June 12, 2008.

High-Containment Biosafety Laboratories: DHS Lacks Evidence to Conclude that Foot-and-Mouth Disease Research Can Be Done Safely on the U.S. Mainland. GAO-08-821T, May 22, 2008.

Prescription Drugs: Trends in FDA's Oversight of Direct-to-Consumer Advertising. GAO-08-758T, May 8, 2008.

Global Nuclear Energy Partnership: DOE Should Reassess Its Approach to Designing and Building Spent Nuclear Fuel Recycling Facilities. GAO-08-483, April 22, 2008.

Drug Safety: Preliminary Findings Suggest Recent FDA Initiatives Have Potential, but Do Not Fully Address Weaknesses in Its Foreign Drug Inspection Program. GAO-08-701T, April 22, 2008.

Nuclear Material: DOE Has Several Potential Options for Dealing with Depleted Uranium Tails, Each of Which Could Benefit the Government. GAO-08-606R, March 31, 2008.

Homeland Security: First Responders' Ability to Detect and Model Hazardous Releases in Urban Areas is Significantly Limited. GAO-08-180, March 4, 2008.

Medicare Advantage: Increased Spending Relative to Medicare Fee-for-Service May Not Always Reduce Beneficiary Out-of-Pocket Costs. GAO-08-359, February 22, 2008.

Federal Oversight of Food Safety: FDA's Food Protection Plan Proposes Positive First Steps, but Capacity to Carry Them Out Is Critical. GAO-08-435T, January 29, 2008.

Medical Devices: Challenges for FDA in Conducting Manufacturer Inspections. GAO-08-428T, January 29, 2008.

Los Alamos National Laboratory: Information on Security of Classified Data, Nuclear Material Controls, Nuclear and Worker

Safety, and Project Management Weaknesses. GAO-08-173R, January 10, 2008.

Maritime Security: Federal Efforts Needed to Address Challenges in Preventing and Responding to Terrorist Attacks on Energy Commodity Tankers. GAO-08-141, December 10, 2007.

High-Containment Biosafety Laboratories: Preliminary Observations on the Oversight of the Proliferation of BSL-3 and BSL-4 Laboratories in the United States. GAO-08-108T, October 4, 2007.

Defense Health Care: Activities Related to Past Drinking Water Contamination at Marine Corps Base Camp Lejeune. GAO-07-276, May 11, 2007.

Energy Markets: Factors That Influence Gasoline Prices. GAO-07-902T, May 22, 2007.

Medicaid Long-Term Care: Few Transferred Assets before Applying for Nursing Home Coverage; Impact of Deficit Reduction Act on Eligibility Is Uncertain. GAO-07-280, March 26, 2007.

Nuclear Nonproliferation: Progress Made in Improving Security at Russian Nuclear Sites, but the Long-term Sustainability of U.S.-Funded Security Upgrades Is Uncertain. GAO-07-404, February 28, 2007.

Maritime Security: Public Safety Consequences of a Terrorist Attack on a Tanker Carrying Liquefied Natural Gas Need Clarification. GAO-07-316, February 22, 2007.

#### CRS REPORTS, MEMORANDUM AND TESTIMONY

CRS Report: U.S.-Russian Civilian Nuclear Cooperation Agreement: Issues for Congress. Order Number RS22892. July 30, 2008.

CRS Memorandum: Background and Status of State Prompt Pay Laws for LTC Insurance. July 15, 2008.

CRS Testimony: Michael F. Martin, Analyst in Asian Political Economy. October 11, 2007.

CRS Memorandum: Congressional Committee Disclosure of Documents Received from Executive Departments and Agencies. April 16, 2007.

CRS Testimony: Donna Porter, Ph.D., R.D., Specialist in Food Safety and Nutrition, Domestic Social Policy Division. January 29, 2008.

CRS Report: The Food and Drug Administration: Budget and Statutory History, FY1980-FY2007. Order Number RL34334. January 24, 2008.

#### GAO TESTIMONY

Nuclear Security: Los Alamos National Laboratory Faces Challenges in Sustaining Physical and Cyber Security Improvements. GAO-08-1180T, September 25, 2008.

EPA Science: New Assessment Process Further Limits the Credibility and Timeliness of EPA's Assessments of Toxic Chemicals. GAO-08-1168T, September 18, 2008.

Long-Term Care Insurance: State Oversight of Rate Setting and Claims Settlement Practices. GAO-08-1016T, July 24, 2008.

Federal Oversight of Food Safety: FDA Has Provided Few Details on the Resources and Strategies Needed to Implement its Food Protection Plan. GAO-08-909T, June 12, 2008.

High-Containment Biosafety Laboratories: DHS Lacks Evidence to Conclude That Foot-and-Mouth Disease Research Can Be Done Safely on the U.S. Mainland. GAO-08-821T, May 22, 2008.

Prescription Drugs: Trends in FDA's Oversight of Direct-to-Consumer Advertising. GAO-08-758T, May 8, 2008.

Drug Safety: Preliminary Findings Suggest Recent FDA Initiatives Have Potential, but Do Not Fully Address Weaknesses in Its Foreign Drug Inspection Program. GAO-08-701T, April 22, 2008.

Nuclear Material: Several Potential Options for Dealing with DOE's Depleted Uranium Tails Could Benefit the Government. GAO-08-613T, April 3, 2008.

Federal Oversight of Food Safety: FDA's Food Protection Plan Proposes Positive First Steps, but Capacity to Carry Them Out Is Critical. GAO-08-435T, January 29, 2008.

Medical Devices: Challenges for FDA in Conducting Manufacturer Inspections. GAO-08-428T, January 29, 2008.

Nuclear Nonproliferation: DOE Needs to Reassess Its Program to Assist Weapons Scientists in Russia and Other Countries. GAO-08-434T, January 23, 2008.

Drug Safety: Preliminary Findings Suggest Weaknesses in FDA's Program for Inspecting Foreign Drug Manufacturers. GAO-08-224T, November 1, 2007.

High-Containment Biosafety Laboratories: Preliminary Observations on the Oversight of the Proliferation of BSL-3 and BSL-4 Laboratories in the United States. GAO-08-108T, October 4, 2007.

Combating Nuclear Smuggling: Additional Actions Needed to Ensure Adequate Testing of Next Generation Radiation Detection Equipment. GAO-07-1247T, September 18, 2007.

Defense Health Care: Issues Related to Past Drinking Water Contamination at Marine Corps Base Camp Lejeune. GAO-07-933T, June 12, 2007.

Federal Oversight of Food Safety: High-Risk Designation Can Bring Attention to Limitations in the Government's Food Recall Programs. GAO-07-785T, April 24, 2007.

Drug Safety: FDA Needs to Further Address Shortcomings in Its Post market Decision-making Process. GAO-07-599T, March 22, 2007.

#### GAO EXHIBITS

Information Security: Actions Needed to Better Protect Los Alamos National Laboratory's Unclassified Computer Network. GAO-08-1001, September 9, 2008.

Nursing Homes: Federal Monitoring Surveys Demonstrate Continued Understatement of Serious Care Problems and CMS Oversight Weaknesses. GAO-08-517, May 9, 2008.

Chemical Assessments: Low Productivity and New Interagency Review Process Limit the Usefulness and Credibility of EPA's Integrated Risk Information System. GAO-08-440, March 7, 2008.

Nuclear Nonproliferation: DOE's Program to Assist Weapons Scientists in Russia and Other Countries Needs to Be Reassessed. GAO-08-189, December 12, 2007.

Nursing Homes: Federal Actions Needed to Improve Targeting and Evaluation of Assistance by Quality Improvement Organizations. GAO-07-373, May 29, 2007.



Nursing Home Reform: Continued Attention Is Needed to Improve Quality of Care in Small but Significant Share of Homes. GAO-07-794T, May 2, 2007.

Nursing Homes: Efforts to Strengthen Federal Enforcement Have Not Deterred Some Homes from Repeatedly Harming Residents. GAO-07-241, March 26, 2007.

National Nuclear Security Administration: Additional Actions Needed to Improve Management of the Nation's Nuclear Programs. GAO-07-36, January 19, 2007.

Drug Safety: Improvement Needed in FDA's Post market Decision-making and Oversight Process. GAO-06-402, March 31, 2006.

Energy Markets: Effects of Mergers and Market Concentration in the U.S. Petroleum Industry. GAO-04-96, May 17, 2004.

Food Safety: FDA's Imported Seafood Safety Program Shows Some Progress, but Further Improvements Are Needed. GAO-04-246, January 30, 2004.

Food Irradiation: Available Research Indicates That Benefits Outweigh Risks. RCED-00-217, August 24, 2000.

Nuclear Nonproliferation: Concerns with DOE's Efforts to Reduce the Risks Posed by Russia's Unemployed Weapons Scientists. RCED-99-54, February 19, 1999.

Food and Drug Administration: Improvements Needed in the Foreign Drug Inspection Program. HEHS-98-21, March 17, 1998.

FDA Laboratories: Magnitude of Benefits Associated With Consolidation Is Questionable. HEHS-96-30, March 19, 1996.

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CRS Memorandum: Long-Term Care Insurance: Key Issues of Legislation in the 110th Congress. July 3, 2008.

CRS Report: The National Bio- and Agro-Defense Facility: Issues for Congress. Order Number RL34160. May 19, 2008.

CRS Memorandum: Methodological Analysis of Union of Concerned Scientists Report on Political Interference at EPA. May 2, 2008.

CRS Report: Regulation of Energy Derivatives. Order Number RS21404. March 19, 2008.

CRS Report: U.S. Food and Agricultural Imports: Safeguards and Selected Issues. Order Number RL34198. October 3, 2007.

CRS Report: Food and Agricultural Imports from China. Order Number RL34080. July 17, 2007.

CRS Memorandum: Food and Agricultural Imports from China. June 6, 2007.

CRS Memorandum: 2006 Oil Industry Profits. May 18, 2007.

CRS Report: Oil Industry Profit Review 2005. Order Number RL33373. January 12, 2007.

#### PENDING GAO REQUESTS

The following is a list of pending GAO studies initiated by the Subcommittee on Oversight and Investigations, but were not been completed by the end of the 110th Congress.

FDA Reliance on Non-Inferiority Studies as Proof of Effectiveness of Other Antibiotics. Study requested on September 6, 2006.

Los Alamos National Laboratory's Classified Cyber Program. Study requested January 19, 2007.

DHS Portal Monitor Certification. Study requested January 19, 2007.

Co-requester to the Review of Biosafety Laboratories. Study requested March 27, 2007.

Government Regulation of Dietary Supplements. Study requested May 14, 2007.

United States Import Safety. Study requested June 14, 2007.

FDA's Use of Incentive Payments. Study requested September 6, 2007.

A Review of the V-22 Osprey Aircraft. Study requested October 30, 2007.

A Study on the Safety of Irradiated Foods. Study requested December 18, 2007.

Proactive Testing of the HHS Institutional Review Boards (IRB) Application Process. Study requested December 18, 2007.

Update of the 1995 Study on "Behind-the-Counter" Drugs. Study requested January 16, 2008.

A Review of FDA's Resources for Drugs, Biological Products, and Medical Devices. Study requested February 15, 2008.

A Review of FDA Information Technology. Study requested February 18, 2008.

A Review of Cost Implications of Work Stoppages from Inadequate Worker Safety Protections and Weaknesses in Nuclear Safety. Study requested April 16, 2008.

The Production and Implementation of Electronic Passports (e-Passports). Study requested May 13, 2008.

Agreement for Cooperation for the Peaceful Uses of Atomic Energy with Russia. May 22, 2008.

A Review of Lawrence Livermore National Laboratory Plans for De-Inventorying Category I and II Special Nuclear Material. Study requested June 25, 2008.

Co-requestor of A Review of the Department of Energy's Handling of Security at Lawrence Livermore National Laboratory. Study requested July 10, 2008.

Review of the Progress, Strategies, Implementation and Management of National Nuclear Security Administration's Stockpiles & Facilities. Study requested August 8, 2008.

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

LEGISLATIVE ACTIVITIES

TRUTH IN CALLER ID ACT OF 2007

(H.R. 251)

To amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

*Summary*

H.R. 251 amends the Communications Act of 1934 to make it unlawful for any person within the United States, in connection with any telecommunications or VoIP service, to cause any caller identification service from transmitting misleading or inaccurate caller identification information with the intent to defraud or cause harm. The Act protects the ability to block any caller identification service to transmit caller identification information. The Act requires the Federal Communications Commission (FCC) to adopt implementing regulations six months after the date of enactment. As part of the rulemaking, the Act also requires the FCC to consider whether its regulations concerning the use of automated telephone equipment should be revised to require noncommercial calls to residential telephone lines using an artificial or pre-recorded voice to deliver a message that transmits non-misleading and accurate caller identification information.

*Legislative History*

On January 5, 2007, H.R. 251 was introduced by Representative Engel and referred to the Committee on Energy and Commerce. On February 2, 2007, H.R. 251 was referred to the Subcommittee on Telecommunications and the Internet.

On February 28, 2007, the Subcommittee held a hearing on H.R. 251, receiving testimony from representatives of the FCC, the communications industry, and consumer privacy groups.

On February 28, 2007, the Subcommittee on Telecommunications and the Internet met in open markup session and forwarded H.R. 251, amended, to the full Committee by a voice vote.

On March 15, 2007, the Committee on Energy and Commerce met in open markup session and H.R. 251 was ordered favorably reported, as amended, by a voice vote.

On June 11, 2007, H.R. 251, was reported to the House, amended (H. Rept. 110-188).

On June 12, 2007, H.R. 251 passed the House, as amended, under suspension of the rules, by a voice vote, two-thirds having voted in favor.

On June 13, 2007, H.R. 251 was received by the Senate and referred to the Committee on Commerce, Science, and Transportation.

IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF  
2007

Public Law 110–53 (H.R. 1, S. 4)

(Telecommunications Provisions)

To provide for the implementation of the recommendations of the National Commission on Terrorist Attacks upon the United States.

*Summary*

This Act contains several titles that fall within the jurisdiction of the Committee on Energy and Commerce. Title III establishes a grant program at the Department of Homeland Security to improve interoperable emergency communications at the local, State, and federal levels. Title III also establishes a pilot project on the U.S.-Canadian and U.S.-Mexican borders to identify issues relating to cross-border emergency communications interoperability. Title XXII modifies an existing emergency communications interoperability grant program housed in the Department of Commerce. Title XXII also requires the FCC to evaluate the feasibility of a back-up emergency communications system and the status of 800 MHz re-banding efforts along the U.S.-Canadian and U.S.-Mexican borders. Title XXII establishes a joint advisory committee to examine the state of communications for emergency medical care facilities. Title XXIII modifies existing law to allow certain grant funds to be used to upgrade public safety answering points to handle enhanced 911 calls.

*Legislative History*

On January 5, 2007, H.R. 1 was introduced by Representative Thompson. It was referred to the Committee on Homeland Security, and in addition to the Committee on Energy and Commerce, Committee on the Judiciary, Permanent Select Committee on Intelligence, Committee on Foreign Affairs, Committee on Transportation and Infrastructure, Committee on Oversight and Government Reform, and Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On January 9, 2007, H.R. 1 was considered under the provisions of H. Res. 6 and passed the House by a rollcall vote: 299–128. H.R. 1 was received by the Senate, read twice, and referred to the Committee on Homeland Security and Governmental Affairs. Mr. Dingell, Chairman of the Committee on Energy and Commerce received a response to his letter of January 9, 2007, to Mr. Thompson, Chairman of the Committee on Homeland Security and sponsor of H.R. 1, agreeing with Mr. Dingell that the intent of H.R. 1 was not to dilute or diminish any authority or resources of the Assistant Secretary for Cyber Security or of other Federal agencies engaged in efforts to secure cyber space.

On July 9, 2007, the Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of H.R. 1 by unanimous consent. During consideration of H.R. 1, the Senate struck all after the enacting clause and substituted the language of S. 4, as amended by the Senate. H.R. 1 then passed the Senate, as amended, by unanimous consent. The Senate insisted on its amendment, requested a conference with the House, and appointed conferees.

On July 17, 2007, the House disagreed with the Senate amendment and agreed to a conference by a voice vote. Subsequently, the House agreed to a motion to instruct conferees by a rollcall vote: 354–66.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of Title I, Title II, sections 743 and 901 of the House bill, and Title III, sections 1002, 1481, 1482, 1484, and Title XVII of the Senate amendment, and modifications committed to the conference: Representatives Dingell, Markey, and Barton.

On July 25, 2007, the House considered the conference report to accompany H.R. 1 (H. Rept. 110–259) under the provisions of H. Res. 567.

On July 26, 2007, the Senate agreed to the conference report by a rollcall vote: 85–8.

On July 27, 2007, the House agreed to the conference report by a rollcall vote: 371–40.

On August 1, 2007, H.R. 1 was presented to the President. On August 3, 2007, H.R. 1 was signed by the President (Public Law 110–53).

#### NEW AND EMERGING TECHNOLOGIES 911 IMPROVEMENT ACT OF 2008

##### Public Law 110–283 (H.R. 3403)

To promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E–911 services, encouraging the Nation’s transition to a national IP-enabled emergency network, and improving 911 and E–911 access for those with disabilities.

#### *Summary*

The New and Emerging Technologies 911 Improvement Act ensures that consumers using Voice over Internet Protocol (VoIP) service can access enhanced 911 (E–911) emergency services by giving VoIP service providers access to the emergency services infrastructure and by extending existing liability protections to VoIP service. The Act also requires the development of a national plan to move to an IP-enabled emergency network and alters an existing grant program to allow funding for IP-enabled emergency networks. The Act also amends existing law so that in times of emergency VoIP service providers may provide otherwise-protected customer information to public safety answering points.

#### *Legislative History*

On August 3, 2007, H.R. 3403 was introduced by Representative Gordon and referred to the Committee on Energy and Commerce.

On August 4, 2007, the bill was referred to the Subcommittee on Telecommunications and the Internet.

On September 19, 2007, the Subcommittee on Telecommunications and the Internet held a hearing on H.R. 3403. The Subcommittee received testimony from representatives of public safety and the communications industry.

On October 10, 2007, the Subcommittee on Telecommunications and the Internet met in open markup session and forwarded H.R. 3403, amended, to the full Committee by a voice vote.

On October 30, 2007, the Committee on Energy and Commerce met in open markup session and H.R. 3403 was ordered favorably reported, amended, by a voice vote.

On November 13, 2007, H.R. 3403 was reported to the House, amended (H. Rept. 110–442). That same day, H.R. 3403 was considered under suspension of the rules and passed the House by a rollcall vote: 406–1.

On November 14, 2007, H.R. 3403 was received by the Senate, read twice, and referred to the Senate Committee on Commerce, Science, and Transportation.

On June 16, 2008, the Committee on Commerce, Science, and Transportation was discharged from further consideration of H.R. 3403 by unanimous consent. That same day, the Senate passed H.R. 3403, amended, by unanimous consent.

On June 23, 2008, the House agreed to the Senate amendment to H.R. 3403 without objection, clearing the measure for the White House.

On July 15, 2008, H.R. 3403 was presented to the President. On July 23, 2008, H.R. 3403 was signed by the President (Public Law 110–283).

#### FOOD, CONSERVATION, AND ENERGY ACT OF 2008

Public Law 110–246 (H.R. 6124, H.R. 2419, S. 2302)

#### (Telecommunications Provisions)

To provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

#### *Summary*

Title VI of H.R. 6124 contains rural development provisions, some of which fall within the jurisdiction of the Committee on Energy and Commerce. Section 6110 of H.R. 6124 makes improvements to a loan program to assist in the deployment of broadband facilities in rural communities. Section 6110 restricts loan funding to those communities most in need of new or additional broadband facilities and limits the ability of any company that serves more than 20 percent of the Nation's households to take more than 15 percent of the available funds in any given year. Section 6111 authorizes a new National Center for Rural Telecommunications Assessment to assess broadband availability in rural areas and the effectiveness of Government programs to increase broadband penetration in rural areas. Section 6112 directs the FCC Chairman to submit to Congress a report describing a comprehensive rural

broadband strategy. Section 6201 contains certain provisions related to rural distance learning and telemedicine.

#### *Legislative History*

On May 22, 2007, H.R. 2419 was introduced by Representative Peterson. It was referred to the Committee on Agriculture, and in addition to the Committee on Foreign Affairs.

On July 19, 2007, the Committee on Agriculture met in open markup session and H.R. 2419 was ordered favorably reported, amended, by a voice vote.

On July 23, 2007, H.R. 2419 was reported to the House, amended, by the Committee on Agriculture (H. Rept. 110–256, Part 1). The Committee on Foreign Affairs was discharged from further consideration of H.R. 2419.

On July 26, 2007, the House began consideration of H.R. 2419 under the provisions of H. Res. 574.

On July 27, 2007, H.R. 2419 passed the House, amended, by a rollcall vote: 231–191.

On September 4, 2007, H.R. 2419 was received in the Senate, read the first time, and placed on Senate Legislative Calendar under Read the First Time.

On September 5, 2007, H.R. 2419 was read a second time and placed on the Senate Legislative Calendar under General Orders, Calendar No. 339.

On December 14, 2007, H.R. 2419 passed the Senate, amended, by a rollcall vote: 79–14. The Senate insisted on its amendment and requested a conference.

On February 2, 2008, the Senate appointed conferees: Senators Harkin, Leahy, Conrad, Baucus, Lincoln, Stabenow, Chambliss, Lugar, Cochran, Roberts, and Grassley.

On April 9, 2008, the House disagreed with the Senate amendment, and agreed to a conference by a voice vote. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of sections 6012, 6023, 6024, 6028, 6029, 9004, 9005, and 9017 of the House bill and sections 6006, 6012, 6110–6112, 6202, 6302, 7044, 7049, 7307, 7507, 9001, 11060, 11072, 11087, and 11101–11103 of the Senate amendment, and modifications committed to conference: Representatives Dingell, Pallone, Barton.

On May 13, 2008, the conference report was filed in the House (H. Rept. 110–627).

On May 14, 2008, the House agreed to the conference report by a rollcall vote: 318–106.

On May 15, 2008, the Senate agreed to the conference report by a rollcall vote: 81–15.

On May 20, 2008, H.R. 2419 was presented to the President.

On May 21, 2008, H.R. 2419 was vetoed by the President. That same day, H.R. 2419 passed the House over the Presidential veto by a rollcall vote: 316–108, two-thirds having voted in the affirmative.

On May 22, 2008, H.R. 2419 passed the Senate over veto by a rollcall vote: 82–13, two-thirds having voted in the affirmative. H.R. 2419 became law (Public Law 110–234).

The House and Senate passed H.R. 2419 over veto, enacting 14 of 15 titles into law. The trade title (Title III) was inadvertently excluded from the enrolled bill. To remedy the situation, both chambers re-passed the farm bill conference agreement (including the trade title) as H.R. 6124, again over veto. H.R. 6124, in section 4, repeals Public Law 110–234 (H.R. 2419) and amendments made by it, effective on the date of that Act’s enactment.

On May 22, 2008, H.R. 6124 was introduced and referred to the Committee on Agriculture and the Committee on Foreign Affairs.

That same day, H.R. 6124 passed the House under suspension of the rules by a rollcall vote: 306–110. H.R. 6124 was received by the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders, Calendar No. 753.

On June 5, 2008, the Senate passed H.R. 6124 by a rollcall vote: 77–15.

On June 16, 2008, H.R. 6124 was presented to the President.

On June 18, 2008, H.R. 6124 was vetoed by the President. The Chair laid before the House the veto message from the President. H.R. 6124 passed the House over the veto by a rollcall vote: 317–109, two-thirds having voted in the affirmative. The veto message was received by the Senate. H.R. 6124 passed the Senate over the veto by a rollcall vote: 80–14, two-thirds having voted in the affirmative. H.R. 6124 became law (Public Law 110–246).

#### BROADBAND CENSUS OF AMERICA ACT

Public Law 110–385 (S. 1492, H.R. 3919)

To provide for a comprehensive nationwide inventory of existing broadband service.

#### *Summary*

The Broadband Census of America Act is intended to improve the quality and quantity of data the Government collects about broadband deployment and adoption, develop a national map displaying broadband availability, and facilitate voluntary public-private partnerships at the State and local levels to promote broadband deployment. The legislation is modeled loosely after broadband mapping initiatives by organizations such as Connected Nation, which have had success in States like Kentucky.

Section 2 of H.R. 3919 requires the FCC to conduct an assessment of the nature and extent of broadband deployment, capability, and subscription to such services, including information comparing the extent of broadband service capability for comparable services in communities in other countries. It also requires the FCC to publicly report certain broadband data annually. Section 3 tasks the NTIA with developing a broadband inventory map of the Nation that depicts the geographic extent and attributes of broadband service capability deployed by both commercial and public providers throughout each State. Section 4 authorizes the NTIA to make grants to States or nonprofit organizations to assist in providing the NTIA with information for the map. Section 5 requires the NTIA to make grants to local technology planning entities to assess the current use of broadband service capability, set goals for improving or maximizing such use, identify local broadband de-



mand and aggregate such demand, and establish programs to improve computer ownership and Internet access for unserved and underserved populations. Section 6 requires the FCC to conduct and make public periodic consumer surveys on broadband use.

#### *Legislative History*

On May 17, 2007, the Subcommittee on Telecommunications and the Internet held a legislative hearing entitled, “H.R. \_\_\_\_\_, a Discussion Draft Addressing Broadband Mapping and Data Collection.” The Subcommittee received testimony from representatives of the communications industry, consumer groups, and non-profit economic development organizations.

On October 10, 2007, the Subcommittee on Telecommunications and the Internet met in open markup session to consider a committee print of H.R. \_\_\_\_\_, the “Broadband Census of America Act of 2007.” The committee print was forwarded to the full Committee by a voice vote.

On October 22, 2007, H.R. 3919, the “Broadband Census of America Act of 2007,” was introduced by Representative Markey and referred to the Committee on Energy and Commerce. On October 23, 2007, H.R. 3919 was referred to the Subcommittee on Telecommunications and the Internet.

On October 30, 2007, the Committee on Energy and Commerce met in open markup session to consider H.R. 3919. Mr. Markey offered an amendment in the nature of a substitute, which was agreed to by a voice vote. H.R. 3919 was ordered favorably reported to the House, amended, by a voice vote.

On November 13, 2007, the Committee on Energy and Commerce reported H.R. 3919 to the House, amended (H. Rept. 110–443). That same day, H.R. 3919 passed the House, as amended, under suspension of the rules, by a voice vote, two-thirds having voted in favor.

On November 14, 2007, H.R. 3919 was received by the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

After the House passed H.R. 3919, the Senate took up the similar measure, S. 1492.

On May 24, 2007, S. 1492 was introduced, read twice, and referred to the Senate Committee on Commerce, Science, and Transportation.

On October 24, 2007, the Senate Committee on Commerce, Science, and Transportation reported S. 1492, with an amendment in the nature of a substitute (S. Rept. 110–204).

On September 26, 2008, the Senate passed S. 1492, amended, by unanimous consent.

On September 27, 2008, S. 1492 was received by the House and referred to the House Committee on Energy and Commerce.

On September 29, 2008, the Committee on Energy and Commerce was discharged from further consideration of S. 1492. The bill then passed the House, amended, without objection.

On September 30, 2008, the Senate agreed to the House amendment to S. 1492, by unanimous consent, clearing the measure for the White House.

On October 2, 2008, S.1492 was presented to the President. On October 10, 2008, S.1492 was signed by the President (Public Law 110–385).

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR  
FISCAL YEAR 2008

(H.R. 1684)

To authorize appropriations for the Department of Homeland Security for fiscal year 2008, and for other purposes.

*Summary*

Section 703 directs the Assistant Secretary of Homeland Security for Cybersecurity and Communications to collaborate with any Federal entity that under law has authority over the activities set forth in Title VII of the Act, which would include the FCC and the NTIA. All other provisions that concerned issues under the jurisdiction of the Telecommunications and the Internet Subcommittee were removed from the final bill prior to its passage by the House.

*Legislative History*

On March 26, 2007, H.R. 1684 was introduced and referred to the Committee on Homeland Security.

On May 4, 2007, the Committee on Homeland Security reported H.R. 1684 to the House, amended (H. Rept. 110–122).

On May 9, 2007, H.R. 1684 was considered under the provisions of H. Res. 382. H.R. 1684 passed the House, amended, by a rollcall vote: 296–126.

On May 11, 2007, H.R. 1684 was received in the Senate, read twice, and referred to the Committee on Homeland Security and Governmental Affairs.

THE DTV TRANSITION ASSISTANCE ACT

Public Law 110–295 (S. 2607, H.R. 5696)

To make a technical correction to section 3009 of the Deficit Reduction Act of 2005.

*Summary*

S. 2607 amends Sections 3008(a) and 3009(a) of the Digital Television Transition and Public Safety Act of 2005 (P.L. 109–171) to make a technical correction and to permit the Assistant Secretary of Commerce for Communications and Information to use certain funds to help ensure a smooth DTV transition. S. 2607 makes a technical correction to the dates by which certain DTV transition assistance funds for low-power television stations may be released by the Department of Commerce. S. 2607 also requires the Assistant Secretary to make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount of grant funds provided under paragraph (1) of Section 3008(a) for digital-to-analog conversion equipment for television translator stations will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed, the Assistant Secretary may use the remaining

amount for consumer education and technical assistance regarding the DTV transition and the availability of the TV Converter Box Coupon Program.

*Legislative History*

On February 7, 2008, S. 2607 was introduced and referred to the Senate Committee on Commerce, Science, and Transportation.

On June 10, 2008, the Committee on Commerce, Science, and Transportation reported S. 2607 to the Senate (S. Rept. 110–348).

On June 19, 2008, S. 2607 passed the Senate, amended, by unanimous consent.

On June 20, 2008, S. 2607 was received by the House and referred to the Committee on Energy and Commerce.

On July 9, 2008, S. 2607 passed the House, as amended by the Senate, under suspension of the rules, by a voice vote, two-thirds having voted in favor.

On July 22, 2008, S. 2607 was presented to the President. S. 2607 was signed by the President on July 30, 2008 (Public Law 110–295).

THE CHILD SAFE VIEWING ACT OF 2007

Public Law 110–452 (S. 602)

To develop the next generation of parental control technology.

*Summary*

S. 602 requires the FCC to, within 90 days of the date of enactment, issue a Notice of Inquiry to examine issues related to the availability and use of advanced blocking technology that enables parents to block access to objectionable video or audio programming. The FCC is required to issue a report to Congress detailing the results of the Notice of Inquiry not later than 270 days after the date of enactment.

*Legislative History*

On February 15, 2007, S. 602 was introduced and referred to the Senate Committee on Commerce, Science, and Transportation.

On March 3, 2008, the Committee on Commerce, Science, and Transportation reported S. 602, with an amendment in the nature of a substitute, to the Senate (S. Rept. 110–268).

On October 1, 2008, S. 602 passed the Senate, amended, by unanimous consent.

On October 2, 2008, S. 602 was received by the House and referred to the Committee on Energy and Commerce.

On October 3, 2008, the Committee on Energy and Commerce was discharged from further consideration of S. 602 by unanimous consent. S. 602 passed the House, amended, without objection.

On November 17, 2008, the Senate agreed to the House amendment to S. 602, by unanimous consent, clearing the measure for the White House.

On November 21, 2008, S. 602 was presented to the President. On December 2, 2008, S. 602 was signed by the President (Public Law 110–452).

## THE SHORT-TERM ANALOG FLASH AND EMERGENCY READINESS ACT

Public Law 110–459 (S. 3663, H.R. 7013)

To require the Federal Communications Commission to provide for a short-term extension of analog television broadcasting authority so that essential public safety announcements and digital television (DTV) transition information may be provided for a short time after February 17, 2009.

*Summary*

S. 3663 requires the FCC to develop and implement, not later than January 15, 2009, a program to encourage and permit continued broadcasting in analog format of public safety information and information about the DTV transition for 30 days after February 17, 2009. The Act places several limitations on permissible continued analog broadcasts, including some to prevent interference with commercial operations in the spectrum reclaimed from broadcasters and auctioned to commercial entities or set aside for public safety.

*Legislative History*

On October 1, 2008, S. 3663 was introduced and referred to the Senate Committee on Commerce, Science, and Transportation.

On November 20, 2008, the Committee on Commerce, Science, and Transportation was discharged from further consideration of S. 3663 by unanimous consent. S. 3663 passed the Senate, amended, by unanimous consent.

On December 9, 2008, the House received S. 3663, and the bill was referred to the Committee on Energy and Commerce.

On December 10, 2008, the Committee on Energy and Commerce was discharged from further consideration of S. 3663 by unanimous consent. That same day, S. 3663 passed the House without objection, clearing the measure for the White House.

On December 12, 2008, S. 3663 was presented to the President. The bill was signed into law on December 23, 2008 (P.L. 110–459).

## OVERSIGHT ACTIVITIES

## OVERSIGHT OF THE FEDERAL COMMUNICATIONS COMMISSION

The Subcommittee on Telecommunications and the Internet held general oversight hearings concerning the practices and activities of the FCC. The first of these hearings occurred on March 14, 2007, and all five FCC Commissioners testified. The witnesses answered questions from the Members of the Subcommittee concerning a variety of telecommunications policy matters.

On July 24, 2007, the Subcommittee on Telecommunications and the Internet held another hearing at which it received testimony from all five FCC Commissioners concerning a variety of telecommunications policy matters. On December 5, 2007, the Subcommittee held an FCC oversight hearing focused on a pending media ownership rulemaking, and on April 15, 2008, the Subcommittee held an FCC oversight hearing focused on the 700 MHz auction.

## DIGITAL TELEVISION TRANSITION

The Subcommittee on Telecommunications and the Internet held a series of hearings regarding the digital television (DTV) transition, including the TV Converter Box Coupon Program administered by the National Telecommunications and Information Administration (NTIA), which allows households to receive by U.S. mail up to two \$40 coupons, each of which may be used towards the purchase of a digital-to-analog converter box that will display digital signals on an analog television set, and consumer education about the DTV transition. The hearings took place on March 28, October 17, and October 31, 2007, and February 13, June 10, and September 16, 2008. At the hearings, the Subcommittee received testimony from representatives of the NTIA and the FCC; IBM, the contractor for the TV Converter Box Coupon Program; and stakeholders in the DTV transition, including broadcasters, cable and satellite operators, consumer electronics manufacturers and retailers and consumer and public interest groups.

On January 22, 2007, Ranking Member Barton, Mr. Upton, and Mr. Hastert introduced H.R. 608, the "Digital Television Consumer Education Act of 2007." The Act was designed to replace certain DTV consumer education provisions that the Senate struck from the original DTV legislation included in the Deficit Reduction Act of 2006 because of the Byrd rule.

On May 24, 2007, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to FCC Chairman Martin and Commissioners Copps, Adelstein, Tate and McDowell expressing concern about the lack of leadership, direction and focus at the FCC concerning the DTV transition and urging the FCC to immediately implement a national consumer education campaign about the DTV transition. FCC Chairman Martin responded to the letter on June 18, 2007. As a result of the letter, the FCC adopted rules regarding the consumer education obligations of broadcasters, multichannel video programming providers and other stakeholders in the DTV transition.

On October 1, 2007, Ranking Member Barton and Mr. Upton sent a letter to FCC Chairman Martin regarding whether he would support passage of H.R. 608, the Digital Television Consumer Education Act of 2007. The letter also asked if and when the FCC would be updating its estimate of the percentage of U.S. households that rely exclusively on over-the-air television. On October 12, 2007, Chairman Martin responded to the letter.

On February 8, 2008, Chairman Dingell and Senate Committee on Commerce, Science, and Transportation Chairman Inouye sent a letter to President Bush urging him to immediately establish an inter-agency task force to oversee the DTV transition and ensure a robust consumer education effort.

On February 12, 2008, Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and 19 additional Committee Members sent a letter to Acting Assistant Secretary Baker strongly urging NTIA to allow households whose TV converter box coupons have expired after the statutorily-prescribed 90 days to reapply for coupons, provided sufficient monies remain in the TV Converter Box Coupon Program to fund such reissuance.

Because NTIA's February 21, 2008, response suggested that NTIA would have a better understanding of the impact of the 90-day expiration and demands on the coupon program as consumers began to redeem coupons, on July 7, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a follow-up letter regarding coupon reissuance. NTIA's August 27, 2008, response to that letter stated that NTIA did not believe that changing the coupon program to allow for coupon reissuance at that time was advisable.

On March 5, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent letters to Acting Assistant Secretary Baker and FCC Chairman Martin requesting that the NTIA and the FCC inform the Committee in writing on a quarterly basis regarding whether each agency anticipates that additional funds will be needed for the TV Converter Box Coupon Program to accommodate requests from any eligible household.

On July 9, 2008, Chairman Dingell, Ranking Member Barton, Telecommunications and the Internet Subcommittee Chairman Markey and Subcommittee Ranking Member Stearns sent a letter to Postmaster General John Potter after receiving complaints that households were not receiving TV converter box coupons, which were being mailed Standard Class, promptly. This circumstance created problems because coupons expire 90 days from the date of mailing. The letter urged the U.S. Postal Service to give mailed TV converter box coupons priority status so households receive them in a timely manner, especially since coupons expire 90 days from the date of mailing. The United States Postal Service responded to the letter on August 8, 2008.

On July 10, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to Acting Assistant Secretary Baker regarding an anticipated shortfall in administrative funds for the TV Converter Box Coupon Program. The letter posed a series of questions related to administrative funds for the TV Converter Box Coupon Program. The Acting Assistant Secretary responded to the letter on July 25, 2008.

On September 15, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to Acting Assistant Secretary Baker asking questions about a legislative proposal submitted to the Committee by NTIA to address an anticipated shortfall in administrative funds for the TV Converter Box Coupon Program so that the Committee could better understand how to address the shortfall. The Acting Assistant Secretary responded to the letter on September 18, 2008.

Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and 4 additional Subcommittee Members sent letters to FCC Chairman Martin and Acting Assistant Secretary Baker on September 25, 2008, and September 26, 2008, respectively, urging the FCC and the NTIA to ensure that television viewers near the U.S.-Mexico border are adequately informed of and prepared for the DTV transition.

On October 21, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to Acting Assistant Secretary Baker asking questions about the TV

Converter Box Coupon Program, including funding for the program and the distribution of TV converter box coupons. The Acting Assistant Secretary responded to the letter on November 7, 2008.

On November 7, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent letters to Acting Assistant Secretary Baker and Chairman Martin asking questions about lessons learned from the early switch to digital broadcasting in Wilmington, North Carolina. The FCC responded to the letter on November 14, 2008, and the NTIA responded on November 18, 2008.

#### DIGITAL FUTURE OF THE UNITED STATES

The Subcommittee on Telecommunications and the Internet held several hearings related to the digital future of the Nation to highlight how the advent of digital, broadband technologies and services were evolving, where and in what conditions innovation was flourishing, and how new digital, broadband services were buffeting existing marketplace participants and current regulatory structures.

The first hearing, on March 1, 2007, had a solo witness: Sir Timothy Berners-Lee, the inventor of the World Wide Web. The Subcommittee received testimony on the special architecture of the World Wide Web and plans for further innovations in mobile web technologies and services, as well as the “semantic web,” an evolution that will transform the web’s capabilities for users and applications.

On March 7, 2007, the Subcommittee held a hearing on the future of radio services. Witnesses representing traditional radio broadcasting, Internet webcasting and satellite radio addressed issues relating to the future of radio and the music industry as technologies and content further migrate to digital formats.

On April 19, 2007, the Subcommittee held a hearing focused on the future of wireless technology. The hearing examined spectrum opportunities for new wireless services and competition in the wireless industry, with a particular eye toward the upcoming 700 MHz auction. Witnesses addressed policy questions about how best to promote competition, advance public safety goals, ensure a wide diversity of ownership in wireless licenses, and foster wireless innovation. A subsequent hearing on July 11, 2007, highlighted the introduction of the iPhone and evaluated issues related to existing and future openness, innovation, and competition in the wireless marketplace.

On April 24, 2007, the Subcommittee held a hearing entitled, “Broadband Lessons From Abroad.” Witnesses included foreign government officials, a foreign telecommunications executive, an entrepreneur, and a representative of a think tank. The purpose of the hearing was to obtain testimony on the advanced state of broadband deployment, speeds, choice, and subscription rates abroad and draw lessons for use in U.S. broadband policymaking.

On May 10, 2007, the Subcommittee held a hearing on the future of video services. The Subcommittee obtained testimony from video services entrepreneurs and a representative of a writers union and wireless video providers. The hearing explored the fact that digital video, particularly video delivered over the World Wide Web, was

transforming the video marketplace and calling into question the applicability of broadcast network non-duplication, syndicated exclusivity, program access, must-carry, sport blackout, and product integration rules.

On July 12, 2007, Subcommittee Chairman Markey convened a roundtable discussion with industry and consumer representatives of web-based streaming radio stations and copyright interests to address issues stemming from recent decisions about copyright royalty rates by the Copyright Royalty Board. The roundtable made significant progress in helping several participants find negotiated resolutions to thorny royalty payment issues.

#### INTERNET FREEDOM

On May 6, 2008, the Subcommittee held a legislative hearing on H.R. 5353, the "Internet Freedom Preservation Act of 2008." Witnesses included representatives of the music recording industry, online retailers, the telephone and cable industries, and public interest groups. The purpose of the hearing was to obtain testimony on the issue of network neutrality, assess the rights of consumers and entrepreneurs on the Internet through various media and technology, and examine the proposals set forth in H.R. 5353.

H.R. 5353 would establish national broadband policy principles in Title I of the Communications Act of 1934 to guide FCC decision-making. The bill would direct the FCC to examine the nature and extent of consumer rights on the Internet and to convene several broadband summits around the country to obtain input from the public and other stakeholders on consumer rights on the Internet. Finally, the bill would require the FCC to convey to Congress the results of its examination of the broadband market and these summits and any other recommendations for Congressional action.

#### PRIVACY AND DEEP PACKET INSPECTION TECHNOLOGIES

The Subcommittee held an oversight hearing on July 17, 2008, entitled, "What Your Broadband Provider Knows About Your Web Use: Deep Packet Inspection and Communications Laws and Policies." Witnesses included representatives of academia, investment companies, and companies offering deep packet inspection technologies. The purpose of the hearing was to explore the nature of deep packet inspection and other technologies and what their arrival in the marketplace portends for consumer privacy and the nature of the Internet.

#### SPECTRUM POLICY AND WIRELESS CONSUMER PROTECTION

The Subcommittee on Telecommunications and the Internet held several hearings examining spectrum policy and wireless consumer protection. The first oversight hearing, entitled "Digital Future of the United States: Part 3: Spectrum Opportunities and the Future of Wireless," was held on April 19, 2007. The Subcommittee received testimony from wireless industry executives concerning the 700 MHz spectrum auction and other wireless issues.

On July 11, 2007, the Subcommittee held an oversight hearing entitled, "Wireless Innovation and Consumer Protection," that focused on wireless consumer protection and how the practices of



wireless carriers impact the pace of technological innovation in the wireless industry. The Subcommittee received testimony from a state government official, a consumer advocate, a law school professor, and several wireless industry executives.

On February 27, 2008, the Subcommittee held a legislative hearing entitled, “H.R. \_\_\_\_, a Discussion Draft on Wireless Consumer Protection and Community Broadband Empowerment Act of 2008.” This hearing focused on draft legislation that established a new regulatory regime for the wireless industry, prohibited State and local laws that prevent municipalities from entering the broadband marketplace, and sought to make the Federal government’s use of spectrum more efficient by requiring the use of smart radio technologies. The Subcommittee received testimony from a local government official, consumer advocates, and a wireless industry official.

On April 15, 2008, the Subcommittee held an oversight hearing focused on the 700 MHz spectrum auction entitled, “Oversight of the Federal Communications Commission—the 700 MHz Auction.” The Subcommittee received testimony from all five FCC Commissioners, as well as representatives of public safety organizations, a public interest organization, and wireless companies.

On September 23, 2008, Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and Congresswoman Harman sent a letter to FCC Chairman Martin urging the FCC to provide adequate time for public comment on the proposed rules for the auction of spectrum in the 700 MHz D Block.

#### SPECTRUM CLEARING OVERSIGHT

On June 27, 2007, Chairman Dingell, Ranking Member Barton, Telecommunications and the Internet Subcommittee Chairman Markey, Telecommunications and the Internet Subcommittee Ranking Member Upton, Oversight and Investigations Subcommittee Chairman Stupak, and Oversight and Investigations Subcommittee Ranking Member Whitfield sent a letter to Secretary of Commerce Gutierrez and Director Portman of the Office of Management and Budget concerning the implementation of certain provisions of the Commercial Spectrum Enhancement Act (Public Law 108–494). The letter urged the Administration to ensure that the Federal agencies required to relocate certain wireless operations do so in the timeframe specified by Congress and that the Administration keep the Members informed of the progress of the relocation efforts.

#### UNIVERSAL SERVICE

On June 24, 2008, the Subcommittee on Telecommunications and the Internet held a hearing entitled, “Universal Service: To Whom, By Whom, For What, and How Much?”. The Subcommittee received testimony about what the core principles of universal service should be from representatives of public policy advocacy groups, state government, and an educational foundation.

On April 12, 2007, Chairman Dingell, Ranking Member Barton, Oversight and Investigations Subcommittee Chairman Stupak, and Oversight and Investigations Subcommittee Ranking Member Whitfield sent a letter to the Comptroller General of the U.S. Government Accountability Office (GAO) requesting assistance in ex-

aming waste, fraud, and abuse in universal service fund programs. Also on April 12, 2007, these same members informed FCC Chairman Martin that the Full Committee and the Oversight and Investigations Subcommittee were reopening an investigation into universal service fund programs and had requested the assistance of the GAO.

On November 25, 2008, the FCC's Inspector General released an audit showing that between July 2006 and June 2007, there were almost \$1 billion in erroneous payments in the high-cost fund, which represents an improper payment rate of more than 23 percent.

#### ACCESS TO COMMUNICATION SERVICES BY THOSE WITH DISABILITIES

On May 1, 2008, the Subcommittee on Telecommunications and the Internet held a legislative hearing entitled, "H.R. \_\_\_\_, Draft Legislation Enhancing Access to Broadband Technology and Services for Persons with Disabilities." The hearing focused on draft legislation that would update telecommunications statutes to ensure that disabled individuals have meaningful access to Internet-based communications and media. The Subcommittee received testimony from disabled individuals, the wireless industry, a public broadcasting station that pioneered accessibility solutions for broadcast media, and the private sector.

On November 26, 2007, Chairman Dingell, Ranking Member Barton, Telecommunications and the Internet Subcommittee Chairman Markey, and Telecommunications and the Internet Subcommittee Ranking Member Upton sent a letter to FCC Chairman Martin requesting that the FCC promptly complete two rulemakings regarding access by the deaf or hard of hearing to 911 services. In response, the FCC adopted an order and issued a further notice of proposed rulemaking on June 11 and December 19, 2008.

#### OVERSIGHT OF THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AND INNOVATIONS IN INTEROPERABILITY

On March 22, 2007, the Subcommittee on Telecommunications and the Internet held an oversight hearing entitled, "Oversight of the National Telecommunications and Information Administration and Innovations in Interoperability." The Subcommittee received testimony from the Assistant Secretary for Communications and Information of the Department of Commerce, who also serves as the Administrator of the NTIA. The Subcommittee also received testimony concerning public safety interoperability from representatives of public safety, equipment and software manufacturers, and the private sector.

#### DOMESTIC SURVEILLANCE

On October 2, 2007, Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and Oversight and Investigations Subcommittee Chairman Stupak sent letters to three major telecommunications carriers seeking information about each company's policy for releasing customer records in light of reports of the Government's warrantless surveillance program. On

October 12, 2007, the three companies responded, stating that any such information, if it existed, was under the exclusive control of the executive branch. Citing the “state secrets” privilege, they also stated that it was their understanding that it would be unlawful for the companies to respond to the letters. On October 12, 2007, the Director of Legislative Affairs for the Director of National Intelligence wrote the Committee, asserting that any response by the telecommunications carriers could disclose classified information relating to intelligence activities.

On November 1, 2007, Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and Oversight and Investigations Subcommittee Chairman Stupak sent a letter to Acting Attorney General Keisler requesting a briefing from the executive branch about the Government’s warrantless surveillance program. The letter noted that because the telecommunications carriers seeking immunity from participation in the warrantless surveillance program informed the Committee that they could not provide information about the program, a briefing by the executive branch was needed.

#### PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANT PROGRAM

On March 26, 2007, Chairman Dingell, Ranking Member Barton, Telecommunications and the Internet Subcommittee Chairman Markey, and Telecommunications and the Internet Subcommittee Ranking Member Upton sent a letter to the Associate Director of the Office of Management and Budget concerning the Public Safety Interoperable Communications (PSIC) grant program administered by the NTIA. The letter addressed concerns about the role of the Department of Homeland Security, which NTIA had hired as a sub-contractor for the grant program.

On May 1, 2007, Chairman Dingell, Ranking Member Barton, Telecommunications and the Internet Subcommittee Chairman Markey, and Telecommunications and the Internet Subcommittee Ranking Member Upton sent a letter to Department of Commerce Secretary Gutierrez concerning the manner in which NTIA was designing and implementing the PSIC grant program. On May 23, 2007, the Secretary responded to the Committee’s letter.

#### MEDIA CONCENTRATION

On December 5, 2007, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the FCC and concentration of media ownership. The hearing examined a proposed FCC rule that would relax the newspaper/broadcast cross-ownership rule. The Subcommittee received testimony from the five FCC Commissioners and from representatives of industry, minority and public interest groups.

#### SPORTS PROGRAMMING

On March 5, 2008, the Subcommittee on Telecommunications and the Internet held an oversight hearing examining competition in sports programming, including regional sports networks, league sports networks and program access. The Subcommittee received

testimony from representatives of sports leagues and programmers, as well as industry executives, a consumer group and a think tank.

#### PRIVATE EQUITY

On March 11, 2008, the Subcommittee held a hearing on the role of private equity in the telecommunications marketplace. The hearing examined the effects of private equity investment on competition, investment, innovation, diversity and localism and underscored the need for policymakers to remain abreast of changes in the financial marketplace. Witnesses included representatives of a private equity firm, a state regulatory commission and academia.

On July 12, 2007, Chairman Dingell and Subcommittee on Telecommunications and the Internet Chairman Markey wrote to FCC Chairman Martin regarding private equity investments in telecommunications assets and whether ownership of telecommunications assets by non-public financial holding companies posed particular challenges for the FCC in adequately performing its regulatory and oversight functions, including with respect to the policy objectives of diversity and localism. Chairman Martin replied on August 31, 2007.

#### PUBLIC, EDUCATIONAL, AND GOVERNMENTAL SERVICES

On January 29, 2008, the Subcommittee on Telecommunications and the Internet held an oversight hearing to explore the future of Public, Educational, and Governmental (PEG) services in the digital television era and the effect that changes in technology and the marketplace will have on the network capacity, services, and applications available to PEG programming providers and on the delivery of PEG services to consumers. The Subcommittee received testimony from executives in the multichannel video programming industry, municipal officials and PEG programming providers.

#### INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

On May 6, 2008, Chairman Dingell, Ranking Member Barton, Telecommunications and the Internet Subcommittee Chairman Markey, Telecommunications and the Internet Subcommittee Ranking Member Stearns, and 12 additional Subcommittee Members sent a letter to Secretary of Commerce Gutierrez expressing support for the Department of Commerce's continued role in facilitating the transition of the technical management and coordination of the Internet's domain name system from the Internet Corporation for Assigned Names and Numbers (ICANN) to the private sector and asking questions about the Department's future oversight of ICANN.

#### WHITE SPACES

On August 5, 2008, Chairman Dingell sent a letter to FCC Chairman Martin regarding the FCC's consideration of use of the television white spaces. The letters asked Chairman Martin to consider licensing some of the white spaces spectrum. On October 24, 2008, Chairman Dingell sent another letter to Chairman Martin concerning the white spaces and sought assurances that the FCC would be able to quickly remedy any harms to consumers caused

by white spaces devices that interfere with free, over-the-air television signals. Chairman Martin replied to the letter on October 31, 2008.

#### TELECOMMUNICATIONS COMPETITION

The Subcommittee on Telecommunications and the Internet held two hearings that focused exclusively on telecommunications competition issues. On October 2, 2007, the Subcommittee on Telecommunications and the Internet held an oversight hearing entitled, "Digital Future of the United States: Part VI: The Future of Telecommunications Competition," which focused on issues including special access and the forbearance process set forth in Section 10 of the Communications Act of 1934. The Subcommittee received testimony from representatives of incumbent and competitive telecommunications carriers.

On July 22, 2008, the Subcommittee on Telecommunications and the Internet held a hearing entitled, "Issues in Telecommunications Competition." This hearing was both a general oversight hearing and a legislative hearing on H.R. 3914, the Protecting Consumers Through Proper Forbearance Procedures Act. The witnesses, which included representatives of incumbent and competitive telecommunications carriers and the cable industry, provided testimony concerning a number of issues related to telecommunications competition, including the ease which consumers are able to change phone carriers, pole attachment rates, and phone company use of proprietary information in retention marketing.

#### CHILDREN AND THE MEDIA

On June 22, 2007, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the images children see in the media. The hearing considered the effects of images of violence, advertising and smoking on children. The Subcommittee received testimony from executives in the television, advertising and motion picture industries, as well as from representatives of consumer groups.

#### ONLINE VIRTUAL WORLDS

On April 1, 2008, the Subcommittee on Telecommunications and the Internet held an oversight hearing exploring online virtual worlds, including the evolution of online virtual worlds for both social networking and business development. The Subcommittee received testimony from the creator of an online virtual world, as well as various groups operating in this space.

#### MERGER OF XM SATELLITE RADIO AND SIRIUS SATELLITE RADIO

On April 21, 2008, Chairman Dingell sent a letter to FCC Chairman Martin drawing his attention to a letter from Representative Butterfield regarding the importance of promoting a diversity of voices in the context of the FCC's review of the proposed merger of XM Satellite Radio and Sirius Satellite Radio merger.

On May 1, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to FCC Chairman Martin concerning the proposed merger of XM Satellite

Radio and Sirius Satellite Radio. The letter requested that the FCC ensure the merger is in the public interest by requiring the merged entity to adhere at a minimum to pricing constraints that XM and Sirius had already filed at the FCC and requiring the merged company to permit any device manufacturer to develop equipment capable of delivering the company's satellite radio service and to incorporate in satellite radio receivers any other technology that would not result in harmful interference with the merged company's network.

#### HATE SPEECH IN THE MEDIA

On June 15, 2007, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to Assistant Secretary Kneuer requesting that the NTIA issue an updated report on the dissemination of speech in the media that may encourage or advocate for hate crimes. The National Telecommunications and Information Administration Organization Act, enacted in 1992, had required a report on hate speech in the media that was released in 1993.

#### TELECOMMUNICATIONS ISSUES

##### FEDERAL COMMUNICATIONS COMMISSION

During the 110th Congress, the Committee conducted vigorous oversight of the Federal Communications Commission. All five FCC Commissioners appeared before the Subcommittee on Telecommunications and the Internet four times, and FCC Chairman Martin appeared at several other hearings devoted to the digital television transition. The Subcommittee's first FCC oversight hearing, on March 14, 2007, marked the first time in three years that all five FCC Commissioners appeared before the Subcommittee.

The Committee evaluated the impact of the FCC's management and regulatory practices on consumers at two general oversight hearings, one on March 14, 2007, and the other on July 24, 2007. At these hearings Members asked questions concerning a wide array of issues, with a particular emphasis on matters then pending at the FCC. Many Members asked questions concerning the openness of the FCC's regulatory processes and whether the FCC was acting, at all times, in the best interests of consumers. On December 5, 2007, the Subcommittee held an FCC oversight hearing focused on a pending media ownership rulemaking, and on April 15, 2008, the Subcommittee held an FCC oversight hearing focused on the 700 MHz auction.

##### DIGITAL TELEVISION TRANSITION

In 1997, to facilitate a transition from traditional analog to digital technology, Congress and the FCC provided each full-power television station with an additional 6 MHz of spectrum so stations could transmit both an analog and a digital signal. The Deficit Reduction Act of 2005 (P.L. 109-171) set a hard date of February 17, 2009, for broadcasters to return their analog spectrum and operate solely in digital. The benefits of this digital television (DTV) transition include more television programming with better picture and sound quality and the freeing up of spectrum for innovative and

wide-reaching wireless services. One of the most important benefits will be using some of that spectrum to create a nationwide broadband public safety network for first responders. The legislation also allocated \$1 billion for creation of an NTIA grant program to help provide interoperable communications equipment for first responders.

After the DTV transition, analog television sets will not be able to display broadcast signals from full-power television stations unless they are connected to cable or satellite service or to a digital-to-analog converter box.

The Deficit Reduction Act also directed the NTIA to implement a \$1.5 billion program to distribute up to two \$40 coupons per household to subsidize the cost of digital-to-analog converter boxes and to educate consumers about that effort. Coupons are available from January 1, 2008, through March 1, 2009, and by law, each coupon expires 3 months after issuance. After administrative expenses, the program will fund 33.5 million coupons. NTIA also certifies coupon-eligible converter boxes and the retailers that are eligible to participate in the coupon program. In August of 2007, NTIA awarded IBM a contract for approximately \$120 million to run the TV Converter Box Coupon Program.

The FCC has been working with stakeholders to educate consumers and ensure that the technical aspects of the DTV transition are occurring in a timely manner.

During the 110th Congress, the Committee conducted vigorous oversight of the DTV transition, including the TV Converter Box Coupon Program and the efforts of the NTIA and the FCC to prepare consumers for the transition. This oversight included six Subcommittee on Telecommunications and the Internet hearings focused on the DTV transition, as well as numerous letters from Chairman Dingell, Ranking Member, and Telecommunications and the Internet Subcommittee Chairman Markey to the NTIA, the FCC, and others about the progress of the transition.

On October 1, 2007, Ranking Member Barton and Mr. Upton sent a letter to FCC Chairman Martin regarding whether he would support passage of H.R. 608, the Digital Television Consumer Education Act of 2007. The letter also asked if and when the FCC would be updating its estimate of the percentage of U.S. households that rely exclusively on over-the-air television. On October 12, 2007, Chairman Martin responded to the letter.

While the NTIA and the FCC have made progress, the GAO reports that much more remains to be done. Specifically, in November 2007, the GAO recommended that the FCC develop a comprehensive plan for the technical, policy, consumer outreach, and other critical elements of the DTV transition. An April 2008 GAO report concluded that while most broadcasters were prepared for the transition, some technical and coordination issues remain. In June 2008, the GAO published the results of a consumer survey indicating that many consumers remain confused about the DTV transition and how to prepare for it. In September 2008, the GAO questioned the NTIA's preparedness for a surge in requests for TV converter box coupons as the end of the DTV transition nears. On November 6, 2008, the GAO named the DTV transition as one of the 13 urgent issues needing the attention of President-Elect

Obama and the 111th Congress during the transition and first year of the new Administration.

#### BROADBAND AND INTERNET FREEDOM

H.R. 3919, the “Broadband Census of America Act,” was introduced on October 22, 2007, by Telecommunications and the Internet Subcommittee Chairman Markey. The Telecommunications and the Internet Subcommittee held a hearing on a draft version of the legislation on May 17, 2007. Witnesses testifying in general support of the draft included representatives of consumer and public interest groups and organized labor, as well as the telephone, cable, and wireless industries.

Another oversight hearing addressing issues raised by the legislation was held on April 24, 2007. This hearing highlighted broadband lessons from abroad and conveyed that other countries have much more comprehensive information about broadband deployment, adoption, and speeds and have plans to promote such attributes. Some witnesses point to an OECD study suggesting the United States has fallen further behind in international rankings, while others said that the study is flawed. H.R. 3919 was marked up on October 30, 2007, and unanimously passed the House on November 13, 2007. A companion bill, S. 1492, was approved by the Senate and enacted in October 2008.

The goal of this legislation was to take the indispensable first step in laying the groundwork for future broadband policymaking. Without adequate and accurate data to indicate the current state of America’s broadband deployment, subscribership, competition, and speeds, policymakers would be operating in the dark. Modeled loosely after broadband mapping initiatives by entities such as Connected Nation, the enacted bill therefore seeks to ensure greater accountability for broadband services by updating the methodology the FCC uses to measure broadband deployment and requiring better data collection from providers, a robust international comparison, and consumer surveys to report on broadband speeds and prices. It provides for grants to help public-private partnerships in which local community leaders and stakeholders identify and aggregate demand for broadband in unserved and underserved communities. Finally, it seeks to develop broadband access maps in partnership with state governments and by providing grants to states entities for such efforts. By knowing where broadband is deployed, we can better target federal resources to deploy broadband in our rural and underserved communities.

H.R. 5353, the “Internet Freedom Preservation Act of 2008,” was introduced on February 12, 2008, by Telecommunications and the Internet Subcommittee Chairman Markey, with Subcommittee colleagues Representatives Pickering, Eshoo, and Doyle. Some of the witnesses at the May 6, 2008, Subcommittee hearing on this legislation testified that the global leadership in high technology provided by the United States stems directly from historic policies that have ensured that telecommunications networks are open to all lawful uses and all users. They said that because broadband networks and the Internet play a vital role in enabling Americans to exercise their First Amendment rights, a policy endorsing the open nature of broadband networks is an important cornerstone of com-



munications policy. Other witnesses testified that the United States' leadership has resulted from the deregulatory policies the United States has adopted regarding the Internet and broadband.

The goal of H.R. 5353 is to preserve and foster the historic, open architecture nature of the Internet and to assess and promote Internet freedom for consumers and content providers. Internet freedom generally embodies the notion that consumers and content providers should be free to send, receive, access and use the lawful applications, content, and services of their choice on broadband networks, possess the effective right to attach and use non-harmful devices in conjunction with their broadband services, and not be subjected to unreasonably discriminatory practices by broadband network providers.

The bill does not require regulation of the Internet. It does, however, suggest that the principles which have guided the Internet's development and expansion are highly worthy of retention, and it seeks to enshrine such principles in the law as hallmarks for U.S. broadband policy. The bill tasks the FCC with conducting an assessment of broadband practices and consumer rights. Finally, it requires the FCC to hold eight broadband summits around the Nation and to report back to Congress on its findings and any recommendations for further action.

#### PRIVACY AND DEEP PACKET INSPECTION TECHNOLOGIES

The Subcommittee on Telecommunications and the Internet held an oversight hearing on July 17, 2008, with respect to privacy issues as highlighted by the emergence of deep packet inspection technologies as a tool being considered for deployment and tested by many broadband service providers. Telecommunications and the Internet Subcommittee Chairman Markey and Full Committee Ranking Member Joe Barton had sent a letter on May 16, 2008, to the CEO of Charter Communications regarding a test of deep packet inspection technology the company planned to undertake and the privacy implications raised by such a test. Chairman Dingell, Full Committee Ranking Member Joe Barton and Telecommunications and the Internet Subcommittee Chairman Markey wrote to the CEO of Embarq on July 14, 2008, expressing similar concerns about a test that Embarq had conducted of deep packet inspection technology. On August 1, 2008, Chairman Dingell, Full Committee Ranking Member Joe Barton, Telecommunications and the Internet Subcommittee Chairman Markey and Telecommunications and the Internet Ranking Member Stearns wrote to more than 30 other broadband service providers, as well as three Internet portal operators, the data they collect and the methods they use to tailor Internet advertising.

Deep packet inspection technology can be deployed not only with the intent to serve targeted advertising tailored to a user's web habits, but also to manage traffic on the network, detect network threats, discover the presence of copyrighted or illegal material, and other applications. As a result, deep packet inspection raises not only significant privacy concerns, but also highlights broader policy questions, including how it impacts the evolution of the Internet and its future prospects for driving innovation and fostering competition and job creation. The digital era in communica-

tions technology will heighten concern about the sensitivity of personal information that can be collected or disclosed about individual citizens and the ever increasing pervasiveness of such data collection. The hearing as well as the Subcommittee's letters underscored the importance of consumer privacy to the future of successful U.S. broadband policy.

#### SPECTRUM POLICY AND WIRELESS CONSUMER PROTECTION

The Committee spent considerable time monitoring the development of wireless broadband services and the impact of wireless carrier practices on consumers. The Committee took note of the structure of the industry and how that structure affects competition and choice for consumers. The Committee also reviewed whether wireless carriers should revise certain practices related to technological innovation and consumer contracts.

The Telecommunications and the Internet Subcommittee's first spectrum policy hearing was held on April 19, 2007, and examined the state of the wireless broadband market and the impact the 700 MHz auction could have on consumers. The Committee received testimony concerning consolidation in the wireless industry and its effects on competition, roaming rates and other issues that affect consumers.

The Committee also examined wireless industry practices concerning customer contracts and technological innovation. The Telecommunications and the Internet Subcommittee held a hearing on February 27, 2008, on draft legislation to create a Federal set of wireless consumer protection standards. The Subcommittee focused on early termination fees and whether and how they are related to the cost of customer equipment. The draft legislation sought to require the amount of early termination fees to decrease over the life of a contract. The draft legislation also provided wireless carriers with a uniform set of consumer protection standards to abide by, including a requirement that wireless carriers adequately disclose the extent of network coverage to consumers at the time of entry into a service contract. Finally, the draft legislation sought to make the Federal government's use of the public airwaves more efficient by requiring the use of smart radio technologies.

The Telecommunications and the Internet Subcommittee's April 15, 2008, hearing on rules for the FCC's auction of spectrum in the 700 MHz band focused on the need for a more open and technologically innovative wireless industry. The Subcommittee received testimony about how much control wireless carriers exercise a disproportionate amount of control over the software applications and services available to consumers. The Subcommittee also examined the ability of consumers to take their wireless devices with them when they change carriers, a practice most carriers do not readily enable.

#### PUBLIC SAFETY COMMUNICATIONS

During the 110th Congress, the Committee on Energy and Commerce conducted oversight to ensure that our Nation's first responders have access to interoperable networks that will allow them to communicate effectively during any emergency. Members of the Committee expressed a strong commitment to ensuring the

creation of a nationwide, interoperable broadband network for public safety communications. The Telecommunications and the Internet Subcommittee held several hearings examining the feasibility of using a public-private partnership to build such a network as part of the auction for the D-Block portion of the 700 MHz spectrum, including whether creating a public-private partnership could meet the dual needs of financing the build-out of a nationwide network and providing the necessary network reliability to public safety.

On June 29, 2007, Ranking Member Barton, Mr. Upton, and 14 other Members from both sides of the aisle sent a letter to FCC Chairman Martin expressing concern that a complicated proposal to impose conditions on the “D Block” of spectrum in the 700 MHz auction was likely to fail. The letter suggested it would be better to auction the spectrum unencumbered after Congress passed legislation allowing the proceeds to be used directly for a public safety grant program. The D Block did not meet its reserve price at the 700 MHz auction, so this matter remains unresolved.

The Committee also sought to ensure that the Public Safety Interoperable Communications grant program, created by the 2005 Deficit Reduction Act and administered by the Department of Commerce, was implemented in accordance with Congressional intent by funding innovative, effective, integrated, and forward-looking interoperability programs at the State and local levels.

#### UNIVERSAL SERVICE FUND OVERSIGHT AND REFORM

During the 110th Congress, the Subcommittee on Telecommunications and the Internet conducted oversight of the Federal universal service fund (USF), with a particular emphasis on reform and whether to add broadband subsidies to the program.

Chairman Dingell expressed support for reforming and rejuvenating the USF, including by: (1) using the USF to support broadband as the future platform of communications; (2) focusing on consumers rather than carriers; (3) examining the effects of regulatory imbalances between types of providers; and (4) ensuring that consumers have access to affordable communications services. A June 24, 2008, Subcommittee hearing examined the future of the USF, including whether existing USF programs will meet future communications infrastructure needs and whether they reflect the core principles of the policy of universal service.

On April 12, 2007, Chairman Dingell, Ranking Member Barton, Oversight and Investigations Subcommittee Chairman Stupak, and Oversight and Investigations Subcommittee Ranking Member Whitfield requested that the GAO continue to examine waste, fraud, and abuse in USF programs.

On November 25, 2008, the FCC’s Inspector General released an audit showing that between July 2006 and June 2007, there were almost \$1 billion in erroneous payments in the high-cost fund, which represents an improper payment rate of more than 23 percent.

#### DOMESTIC SURVEILLANCE

In the fall of 2005, press reports revealed that the Administration had been conducting a warrantless domestic surveillance pro-

gram, which it used to obtain, among other things, many customers' calling records from telecommunications carriers. Citizens and advocacy organizations sued the telecommunications carriers, alleging violations of federal privacy statutes. The telecommunications carriers, in turn, sought retroactive immunity from Congress for their participation in the program. To evaluate the need for immunity, the Committee on Energy and Commerce examined the domestic surveillance program and the issues raised by the lawsuits.

On October 2, 2007, Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and Oversight and Investigations Subcommittee Chairman Stupak asked for and received comments from various civil liberties and privacy organizations on Public Law 110-55, the Protect America Act, which proposed to legalize certain tenets of the warrantless surveillance program going forward. They also sent letters to three major telecommunications carriers seeking information about each company's policy for releasing customer records in light of reports of the Government's warrantless surveillance program. On October 12, 2007, the three companies responded, stating that any such information, if it existed, was under the exclusive control of the executive branch. Citing the "state secrets" privilege, they also stated that it was their understanding that it would be unlawful for the companies to respond to the letters. On October 12, 2007, the Director of Legislative Affairs for the Director of National Intelligence wrote the Committee, asserting that any response by the telecommunications carriers could disclose classified information relating to intelligence activities.

On November 1, 2007, Chairman Dingell, Telecommunications and the Internet Subcommittee Chairman Markey, and Oversight and Investigations Subcommittee Chairman Stupak sent a letter to Acting Attorney General Keisler requesting a briefing from the executive branch about the Government's warrantless surveillance program. The letter noted that because the telecommunications carriers seeking immunity from participation in the warrantless surveillance program informed the Committee that they could not provide information about the program, a briefing by the executive branch was needed. Ultimately, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey opposed legislation granting telecommunications carriers retroactive immunity for their participation in the Administration's warrantless surveillance program because the Administration refused to provide the Committee with a full explanation of the facts underlying the program.

#### MEDIA CONCENTRATION

In the 110th Congress, the Committee on Energy and Commerce examined concentration in the media, with the intent of ensuring localism and diversity.

The Telecommunications and the Internet Subcommittee held an FCC oversight hearing concerning media ownership on December 5, 2007. The hearing focused on a proposed FCC rule that would relax restrictions on newspaper/broadcast cross-ownership. Many Members of the Subcommittee voiced concern that the proposed

rule would not be in the public interest. Others noted that the courts have questioned the validity of current ownership restrictions and expressed support for deregulation in light of increasing audio and video competition from cable, satellite, and the Internet.

The Subcommittee also examined ways in which mergers of certain media companies could affect their public interest obligations. On March 11, 2008, the Subcommittee held a hearing on private equity ownership, which examined the policy implications of a private equity company running a media company. On May 1, 2008, Chairman Dingell and Telecommunications and the Internet Subcommittee Chairman Markey sent a letter to FCC Chairman Martin regarding the proposed merger of XM Satellite Radio and Sirius Satellite Radio. The letter requested that the FCC ensure the merger is in the public interest by requiring the merged entity to adhere at a minimum to pricing constraints that XM and Sirius had already filed at the FCC and required the merged companies to permit any device manufacturers to develop equipment that can deliver the company's satellite radio service and to incorporate in satellite radio receivers any other technology that would not result in harmful interference to the merged company's network.

The Subcommittee also addressed issues relating to competition in sports programming. The Subcommittee held a hearing on March 7, 2008, that examined issues relating to regional sports networks, sports league networks and program access, as well as the shifting of sports programming from free, over-the-air television to pay television platforms.

#### HEARINGS HELD

*H.R. 251, the "Truth in Caller ID Act of 2007".*—Legislative hearing on the provisions of H.R. 251. Hearing held on February 28, 2007. PRINTED, Serial No. 110–8.

*Digital Future of the United States: Part 1—The Future of the World Wide Web.*—Oversight hearing on the World Wide Web and the future of web-based protocols, services, and applications. Hearing held on March 1, 2007. PRINTED, Serial No. 110–10.

*Digital Future of the United States: Part 2—The Future of Radio.*—Oversight hearing on the radio business and its future, including issues of competition, innovation, localism, and diversity in radio services and content. Hearing held on March 7, 2007. PRINTED, Serial No. 110–10.

*Oversight of the Federal Communications Commission.*—Oversight hearing on management and functioning of the FCC and the views of all five of the Commissioners on matters of policy and process. Hearing held on March 14, 2007. PRINTED, Serial No. 110–18.

*Oversight of the National Telecommunications and Information Administration and Innovations in Interoperability.*—Oversight hearing on policies and procedures of the NTIA, including an examination of the need for innovative approaches to interoperability. Hearing held on March 22, 2007. PRINTED, Serial No. 110–24.

*The Status of the Digital Television Transition.*—Oversight hearing on NTIA's implementation of the TV Converter Box Coupon Program; steps the NTIA and the FCC must take to ensure a successful and timely DTV transition; and the efforts to educate con-

sumers about the DTV transition. Hearing held on March 28, 2007. PRINTED, Serial No. 110–27.

*Digital Future of the United States: Part III, Spectrum Opportunities and the Future of Wireless.*—Oversight hearing on issues relating to the 700 MHz auction, as well as an examination of the future of the wireless industry. Hearing held on April 19, 2007. PRINTED, Serial No. 110–10.

*Digital Future of the United States: Part IV, Broadband Lessons from Abroad.*—Oversight hearing on broadband policies, deployment, subscribership, speed and price from an international perspective. Hearing held on April 24, 2007. PRINTED, Serial No. 110–10.

*Digital Future of the United States: Part V, The Future of Video.*—Oversight hearing on the emergence of digital video, including video delivered over the Internet, and implications for current laws, regulations, and business practices in the video marketplace, as well as the prospects for further innovation. Hearing held on May 10, 2007. PRINTED, Serial No. 110–10.

*H.R. ———, A Discussion Draft Addressing Broadband Mapping and Data Collection.*—Legislative hearing on provisions of draft legislation concerning broadband data. Hearing held on May 17, 2007. PRINTED, Serial No. 110–48.

*Images Kids See on the Screen.*—Oversight hearing on images children see in the media and their effect on children's behavior and health. Hearing held on June 22, 2007. PRINTED, Serial No. 110–58.

*Wireless Innovation and Consumer Protection.*—Oversight hearing on wireless consumer protection issues and the role of States, as well as an examination of the state of innovation and consumer choice in the wireless equipment market. Hearing held on July 11, 2007. PRINTED, Serial No. 110–61.

*Oversight of the Federal Communications Commission. Part 2.*—Oversight hearing on the FCC and its processes. Hearing held on July 24, 2007. PRINTED, Serial No. 110–18.

*H.R. 3403, the 911 Modernization and Public Safety Act of 2007.*—Legislative hearing on the provisions of H.R. 3403. Hearing held on September 19, 2007. PRINTED, Serial No. 110–66.

*Digital Future of the United States: Part VI: The Future of Telecommunications Competition.*—Oversight hearing on the nature and extent of telecommunications competition, including an examination of special access, FCC forbearance authority, copper loop retirement, and the municipal provision of broadband service. Hearing held on October 2, 2007. PRINTED, Serial No. 110–10.

*Status of the DTV Transition—Part 2.*—Oversight hearing on the status of the transition to digital television, potential challenges to successful implementation of the transition, impacts upon consumers and the marketplace, and implementation of consumer education initiatives. Hearing held on October 17, 2007. PRINTED, Serial No. 110–27.

*Status of the DTV Transition—Part 3.*—Oversight hearing on the status of the transition to digital television, potential challenges to successful implementation of the transition, impacts upon consumers and the marketplace, and implementation of consumer edu-

cation initiatives. Hearing held on October 31, 2007. PRINTED, Serial No. 110–27.

*Oversight of the Federal Communications Commission—Media Ownership.*—Oversight hearing on FCC Chairman Martin’s proposal to relax the newspaper/broadcast cross-ownership rule and an examination of how to advance longstanding media policy objectives of competition, diversity, localism, and minority ownership. Hearing held on December 5, 2007. PRINTED, Serial No. 110–77.

*Public, Educational, and Governmental (PEG) Services in the Digital Age.*—Oversight hearing on the future of PEG services in the digital television era and the effect that changes in technology and the marketplace will have on the network capacity, services, and applications available to PEG programming providers and on the delivery of PEG services to consumers. Hearing held on January 29, 2008. PRINTED, Serial No. 110–84.

*Status of the DTV Transition: 370 Days and Counting.*—Oversight hearing on the status of the transition to digital television, potential challenges to successful implementation of the transition, impacts upon consumers and the marketplace, and implementation of consumer education initiatives. Hearing held on February 13, 2008. PRINTED, Serial No. 110–88.

*H.R.———, A Discussion Draft on Wireless Consumer Protection and Community Broadband Empowerment.*—Legislative hearing on draft legislation establishing a national framework for wireless services and consumer protection, promoting community broadband, and ensuring spectrum efficiency. Hearing held on February 27, 2008. PRINTED, Serial No. 110–95.

*Competition in the Sports Programming Marketplace.*—Oversight hearing on the state of competition in the sports programming marketplace, including the nature of programming distribution, consumer choice, and other issues. Hearing held on March 5, 2008. PRINTED, Serial No. 110–98.

*The Role of Private Equity in the Communications Marketplace.*—Oversight hearing on the role of private equity in communications markets, including its effect on innovation, competition, employment, diversity, FCC regulatory requirements, and the public interest. Hearing held on March 11, 2008. PRINTED, Serial No. 110–100.

*Online Virtual Worlds: Applications and Avatars in a User-Generated Medium.*—Oversight hearing on the nature and growth of online virtual worlds, including the evolution of online virtual worlds for both social networking and business development. Hearing held on April 1, 2008. PRINTED, Serial No. 110–102.

*Oversight of the Federal Communications Commission: The 700 Mhz Auction.*—Oversight hearing on results of the auction for licenses in the 700 megahertz band and its impact on competition, consumer choice, diversity of ownership, introduction of new technologies and services, and public safety communications, as well as to explore options for the reauction of the D-block license. Hearing held on April 15, 2008. PRINTED, Serial No. 110–106.

*H.R.———, Draft Legislation Enhancing Access to Broadband Technology and Services for Persons With Disabilities.*—Legislative hearing on draft legislation to enhance access to telecommuni-

cations technologies and services for individuals with disabilities. Hearing held on May 1, 2008. PRINTED, Serial No. 110–110.

*H.R. 5353, the “Internet Freedom Preservation Act of 2008”.*—Legislative hearing on the provisions of H.R. 5353 and network neutrality principles, their application in the broadband marketplace, and national broadband policy. Hearing held on May 6, 2008. PRINTED, Serial No. 110–112.

*Status of the DTV Transition: 252 Days and Counting.*—Oversight hearing on the status of the digital television transition, including updated information about consumer awareness and outreach efforts, the TV Converter Box Coupon Program, and technical obstacles to the transition. Hearing held on June 10, 2008. PRINTED, Serial No. 110–124.

*The Future of Universal Service: To Whom, By Whom, For What, and How Much?*—Oversight hearing on the universal service fund, core principles of universal service, and ideas regarding the future of the universal service fund. Hearing held on June 24, 2008. PRINTED, Serial No. 110–131.

*What Your Broadband Provider Knows About Your Web Use: Deep Packet Inspection and Communications Laws and Policies.*—Oversight hearing on the technical capabilities of deep packet inspection, the nature and scope of deployment of such technologies by network operators, and implications for consumer privacy. Hearing held on July 17, 2008. PRINTED, Serial No. 110–137.

*Issues in Telecommunications Competition.*—Legislative hearing on the provisions of H.R. 3914, the “Protecting Consumers through Proper Forbearance Procedures Act,” and oversight hearing on the state of competition in telecommunications markets and issues affecting the prospects for greater competition, including rules governing interconnection and access, number porting, retention marketing, and pole attachment rates. Hearing held on July 22, 2008. PRINTED, Serial No. 110–138.

*Status of the DTV Transition: 154 Days and Counting.*—Oversight hearing on the status of the digital television transition, including updated information about consumer awareness and outreach efforts, the TV Converter Box Coupon Program, technical obstacles to the transition, and the transition test market in Wilmington, North Carolina. Hearing held on September 16, 2008. PRINTED, Serial No. 110–148.



COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT  
PLAN, U.S. HOUSE OF REPRESENTATIVES, 110TH CON-  
GRESS, THE HONORABLE JOHN D. DINGELL

Rule X, clause 2(d) of the Rules of the House requires each standing Committee to adopt an oversight plan for the two-year period of the Congress and to submit the plan to the Committee on Oversight and Government Reform and to the Committee on House Administration not later than February 15 of the first session of the Congress.

This is the oversight plan of the Committee on Energy and Commerce for the 110th Congress. It includes the areas in which the Committee expects to conduct oversight during the 110th Congress, subject to limits on staff and resources, but does not preclude oversight or investigation of additional matters as the need arises.

COMMERCE, TRADE, AND CONSUMER PROTECTION ISSUES

THE FEDERAL TRADE COMMISSION

In the 110th Congress, the Committee will review the management, operations, rulemaking, and enforcement actions of the Federal Trade Commission (FTC). In particular, the Committee will review Commission activity with regard to mergers and acquisitions, franchises, business opportunities, telemarketing, identity theft, and privacy, as well as actions regarding false and deceptive advertising, including offerings made by mail and e-mail.

THE CONSUMER PRODUCT SAFETY COMMISSION

In the 110th Congress, the Committee will conduct a broad review of the management, operations, activities, and performance of the Consumer Product Safety Commission (CPSC) in safeguarding consumers, particularly children, from faulty or dangerous products. This will include review of the CPSC's implementation of Section 15(b) of the Consumer Product Safety Act pertaining to Substantial Product Hazard Reports; other data gathering and dissemination efforts with respect to products within its jurisdiction; the assessment of civil penalties to enforce safety; CPSC work on emerging hazards; and the relationship of CPSC orders to common law. The Committee will examine other activities that may enhance consumer product safety, such as safety standard-setting and certifying organizations.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

In the 110th Congress, the Committee will review the management, operations, and activities of the National Highway Traffic Safety Administration, particularly as they pertain to motor vehicle-related safety.

## INTERSTATE COMMERCE AND E-COMMERCE

In the 110th Congress, the Committee will examine issues that substantially affect interstate commerce. The Committee will continue its review of consumer information privacy in the commercial context. The Committee will also examine impediments to electronic commerce, including State legal and regulatory impediments and potentially anti-competitive activities in the private sector. In addition, the Committee will review and consider issues relating to private-sector cyber security, fraud, and other criminal issues confronting e-commerce.

## TRADE

In the 110th Congress, the Committee will monitor and examine both multilateral trade agreements (including World Trade Organization agreements) and bilateral agreements as those agreements relate to industries, commodities, and services within the Committee's jurisdiction, including telecommunications, electronic commerce, food and drugs, and energy. The Committee will particularly examine the issue of whether these trade agreements adequately protect the interests of domestic and foreign workers and the environment. In addition, some of the trade practices that require investigation include: Currency manipulation by China and others; widespread theft of American intellectual property; failure to abide by agreements regarding environment and worker health and safety; use of offshore havens to perpetrate frauds on U.S. consumers and investors; and the proper enforcement of anti-dumping and countervailing duty laws by the Department of Commerce. In doing so, the Committee will review the programs, policies, and procedures of various Government agencies that may needlessly impair the flow of people and commerce across our Nation's borders and, in particular, their ability to protect the international supply chain as it affects the economy of the United States.

## TRAVEL AND TOURISM

In the 110th Congress, the Committee will review issues affecting the travel and tourism industries, as well as how the travel and tourism industries, along with Federal and State governments, can encourage and promote the United States as a travel destination for international and domestic passengers. This review will include, but not be limited to, the operations of various government departments that may needlessly interfere with the free flow of tourists across our border including activities related to the policies, procedures, and administration of programs related to passports, visas, and other relevant travel documents. In addition, the Committee will review issues related to the plans and programs of various Government agencies that may affect travel and tourism in response to pandemic outbreaks.

## ATHLETICS

In the 110th Congress, the Committee will examine issues arising from the commerce of professional and amateur athletics, including drug abuse, and the health and welfare of athletes. In addi-

tion, the Committee will monitor the governance of organizations responsible for administering athletics, including the U.S. Olympic Committee.

## ENERGY AND AIR QUALITY ISSUES

### GLOBAL CLIMATE CHANGE

In the 110th Congress, the Committee will carry out a broad review of the global climate change issue, with a particular focus on the role of human activity in global warming. The Committee will examine the social, economic, cultural, and homeland security implications of climate change and policy options for responding to this problem. The Committee will also review the Department of Energy (DOE), the Federal Energy Regulatory Commission (FERC), and the Environmental Protection Agency (EPA) strategies and activities in this area.

### NATIONAL ENERGY POLICY

In the 110th Congress, the Committee will examine U.S. policies pertaining to energy efficiency and conservation, production, and consumption of electricity, oil, natural gas, coal, hydroelectric power, nuclear power, and renewable energy. The Committee will examine the impact of government policies and programs on the exploration, production, and development of domestic energy resources, including the effect of budget cuts on research on alternative energy. In addition, the Committee will review issues arising from the production and delivery of oil and gas from Alaska and the Gulf of Mexico, including pipeline safety, the Strategic Petroleum Reserve, and foreign pipeline and LNG facilities crucial to American interests. The Committee will also examine global crude oil supplies in light of potential supply interruptions, such as the war in Iraq and political turmoil in Venezuela. The Committee will review the national security and energy policy implications of disruptions to Russian oil and gas deliveries to Europe and elsewhere.

### OIL AND NATURAL GAS MARKETS

In the 110th Congress, the Committee will examine the unregulated over-the-counter oil futures market, investigate whether this market is being manipulated by speculators, and examine whether this speculation may be artificially inflating the price of crude oil. The Committee will also review solutions to this problem, including possible regulation by the Commodities Futures Trading Commission (CFTC). In addition, the Committee will investigate allegations of gasoline price gouging. The Committee will also examine the unregulated over-the-counter natural gas market, focusing on the need for market transparency and regulation. The Committee will also examine the role of the U.S. and Iraqi Governments in legislation requiring Iraq to cede control of its oil industry to foreign oil companies and the implications for the global crude oil supply, as well as U.S. national security and energy policy.

#### MANAGEMENT OF THE DEPARTMENT OF ENERGY AND ITS NATIONAL LABORATORIES

The Committee will oversee management and operations issues at the Department of Energy, including management and operations of the National Nuclear Security Administration (NNSA) and the DOE National Laboratories. Such a review will also include investigating allegations that laboratory employees on detail to Government agencies have improperly utilized their position to improperly steer Government contracts to themselves or their host labs. The Committee will particularly focus on DOE's management of the environment, safety, and health aspects of its policies and activities. The Committee will also review DOE management of the contractors that operate the National Laboratories. The Committee's oversight work will include a review of the implementation of nuclear security requirements at NNSA and DOE facilities; ongoing safety and security problems at the Los Alamos National Laboratory; and the Office of Environmental Management's accelerated cleanup program and high-level radioactive waste management efforts. The Committee will conduct a careful review of DOE's compliance with Federal and State environmental laws and regulations. In addition, the protection of nuclear materials around the globe is among the Committee's highest priorities. Oversight in the 110th Congress will focus on DOE operation of the First and Second Lines of Defense programs overseas; DOE and Customs and Border Patrol (CBP) efforts to secure foreign ports that ship into the U.S.; on-going problems at both the National Labs and at nuclear power plants with respect to leaks of both nuclear materials and sensitive security information; and nuclear detection systems at air, land, and seaports.

#### THE FEDERAL ENERGY REGULATORY COMMISSION

In the 110th Congress, the Committee will examine the activities of the Federal Energy Regulatory Commission pertaining to energy industry licensing, ratemaking, and mergers and acquisitions, with a particular focus on the protection of consumers. The Committee will also examine issues pertaining to the adequacy and reliability of the Nation's interstate electric transmission grid. In addition, the Committee will conduct oversight of FERC's handling of lessons learned from the crisis in California and western electricity markets during 2001 and 2002, and steps taken to prevent future manipulation of energy markets for both natural gas and electricity.

#### THE NUCLEAR REGULATORY COMMISSION

The Committee will review the activities of the Nuclear Regulatory Commission (NRC). The Committee will examine NRC's budget requests, conduct oversight of how the Commission discharges its various responsibilities, and review whether the Commission is an effective regulator of nuclear facilities. In particular, the Committee will monitor closely the efforts of NRC to fully implement new security requirements at commercial nuclear power plants.

## CLEAN AIR ACT

In the 110th Congress, the Committee will review the Environmental Protection Agency's implementation of the Clean Air Act, particularly pertaining to rulemakings affecting power plants, including new source review, mercury emissions, and other regulation of air pollution. The Committee will also investigate allegations of undue industry influence on Clean Air Act rulemakings and purported attempts to undercut existing enforcement actions.

## ENVIRONMENT AND HAZARDOUS MATERIALS ISSUES

## EPA MANAGEMENT AND OPERATIONS

In the 110th Congress, the Committee intends to conduct an extensive review of the management, operations, and activities of the Environmental Protection Agency, including a review of the agency's budget, funding decisions, resource allocations, grants, research activities, enforcement actions, relations with State and local Governments, and program management and implementation. The Committee will particularly examine EPA's substitution of voluntary compliance programs instead of enforcement, including the shifting of funds and personnel to voluntary compliance programs and initiatives that have no specific authorization and that the EPA Inspector General has reported often fail to achieve the promised compliance. In addition, the Committee will investigate all aspects of the EPA's decision to close its libraries and give away and/or destroy parts of the library collections. The Committee will also examine the issue of whether scientists both inside and outside EPA are playing an adequate role in rulemaking and other decision-making at the agency.

## HAZARDOUS AND TOXIC WASTES

In the 110th Congress, the Committee will review the management, operations, activities, and funding of the Superfund program, with a particular focus on EPA failure to investigate, score, and list toxic waste sites that local communities, States, and EPA Regional Offices have requested for listing on the National Priorities List (NPL). The Committee will examine the issue of whether there is adequate funding for remedial action at NPL sites that are ready to begin final cleanup. The Committee will also examine the issue of whether EPA has adequately addressed widespread perchlorate contamination and the public health risks posed by Concentrated Animal Feeding Operations (CAFOs). The Committee will review global hazardous materials treaties to which the United States is signatory and review these agreements for compliance with Federal and State environmental laws and regulations.

## DEPARTMENT OF DEFENSE COMPLIANCE WITH ENVIRONMENTAL LAWS

The Committee will review Department of Defense (DOD) environmental activities and ascertain its record of clean-up effectiveness, ongoing monitoring, and compliance with Federal and State environmental laws and regulations. The Committee will particu-

larly examine EPA's failure to enforce environmental laws at DOD facilities; DOD opposition to the listing of toxic waste sites on the NPL; DOD refusal to sign interagency cleanup agreements with EPA; DOD challenges to State regulatory authority under the Resource Conservation and Recovery Act (RCRA) at formerly utilized defense sites (FUDS); DOD delays in cleaning up its Superfund sites; and DOD refusal to respond to data requests from the Agency for Toxic Substances and Disease Registry (ATSDR) pertaining to contamination of Marine families' drinking water at Camp Lejeune.

## HEALTH AND HEALTHCARE ISSUES

### THE FOOD AND DRUG ADMINISTRATION

In the 110th Congress, the Committee will review the management, operations, and activities of the Food and Drug Administration (FDA), including its implementation of statutes and regulations pertaining to its mission to ensure the safety of drugs and the food supply. Drug safety investigations will focus on allegations that the FDA has repressed expert scientific opinion regarding serious problems arising during clinical trials and dismissed credible information developed by FDA scientists charged with monitoring adverse events associated with approved drugs. The Committee will also review the failure of the FDA and other Federal law enforcement agencies to control the importation and sale of illicit, counterfeit, and dangerous drugs.

Food safety investigations will focus on the effect of budget and other resource cuts on the ability of the FDA to adequately enforce food safety laws and regulations. The Committee will also investigate allegations that compliance with the law has become voluntary with the effect on the food supply of: Increases in E. Coli outbreaks in fresh produce; meat that is packaged in an atmosphere containing carbon monoxide with the specific purpose of preserving the red coloring beyond the time when it can be consumed safely; and inadequate inspection of imported food.

The Committee will also conduct a broad examination of the regulation of medical device safety. In addition, the Committee will review the issue of generic drug lag and the FDA's failure to approve generic biopharmaceuticals; the adequacy of clinical trial oversight conducted by FDA and the related issue of human subject protection; the effect of six-month exclusivity extensions granted by the FDA upon approval of pediatric drug testing protocols and whether such protocols are sufficient to determine either the safety or efficacy of these drugs in children; the FDA's implementation of the Best Pharmaceuticals for Children Act; the safety and regulation of the blood supply; and the frequency and reliability on inspections of foreign drug manufacturing, particularly in China and India.

### CENTERS FOR MEDICARE AND MEDICAID SERVICES

In the 110th Congress, the Committee will review the management, operations, and activities of the Centers for Medicare and Medicaid Services (CMS), including its management and oversight of the programs it administers. The Committee will also examine and review Medicare and Medicaid management and activity as it

relates to ongoing Committee efforts to prevent waste, fraud, and abuse in Federal healthcare programs. Medicare and Medicaid fraud investigations will include drug pricing abuses under Part D (the Medicare drug benefit); CMS policing of rebates due the Medicaid program under the Medicaid drug rebate program; and fraud involving durable medical equipment. The Committee will also review alleged fraud in billing by home health agencies (HHAs); hospice benefit fraud; CMS enforcement against nursing home abuses; the effectiveness and reliability of Program Safeguard Contractors (PSCs); the high rate of hospital-acquired infections; and the effectiveness of the Health Insurance Portability and Accountability Act (HIPPA) enforcement.

#### HURRICANE KATRINA AND HEALTH SERVICES

In the 110th Congress, the Committee will investigate the efforts of Department of Health and Human Services (HHS), the Department of Homeland Security (DHS), and others to reconstruct the healthcare infrastructure in New Orleans following Hurricane Katrina, including the homeland security implications of such efforts for future disasters. The Committee will also review the performance of the HHS Office of Emergency Preparedness during and after Katrina and the use of the Public Health Service Corps during Katrina and other emergencies.

#### CENTERS FOR DISEASE CONTROL AND PREVENTION

In the 110th Congress, the Committee will review the management, operations, and activities of the Centers for Disease Control and Prevention, with particular focus on the effects of outsourcing of critical Government functions and its impact on its ability to respond to both natural and man-made outbreaks of disease.

#### NATIONAL INSTITUTES OF HEALTH

In the 110th Congress, the Committee will examine the National Institutes of Health (NIH) organizational structure, priority setting, and research activities. This effort will include oversight of management and operations of internal NIH programs, as well as NIH-funded extramural research. Particular emphasis will be placed on the effectiveness of NIH's policies, procedures, and programs related to preparing for and responding to terrorist events.

#### TELECOMMUNICATIONS AND INTERNET ISSUES

##### THE FEDERAL COMMUNICATIONS COMMISSION

During the 110th Congress, the Committee will review the management, operations, and activities of the Federal Communications Commission (FCC), including the effect of its decisions on increasing competition, increasing the availability of technologies and services, assuring widespread deployment and reasonable rates for telecommunication and broadband services, protecting consumers, assuring adequate emergency communications capability and otherwise serving the public interest, convenience and necessity. The Committee will examine the FCC's spectrum management policies to determine whether the policies encourage efficient use of the

electromagnetic spectrum and equitable distribution of Commission licenses and authorizations. The FCC's efforts to transition the Nation from analog to digital broadcasting will be a particular focus of the Committee. The Committee will also examine the management and funding of the FCC's Office of Inspector General (IG), particularly with respect to the issue of whether the IG has adequate resources and the institutional independence necessary to carry out its responsibilities.

#### UNIVERSAL SERVICE REFORM

In the 110th Congress, the Committee will investigate waste, fraud, and abuse in the FCC's Universal Service Fund, including the management and administration of the High Cost program, the E-Rate program that pays to connect schools and libraries to the Internet, and the Rural Health Care program.

#### INTERNET GOVERNANCE AND OPERATIONS

The Committee will review programs and efforts to assure the safe, secure, and robust functioning of the Internet. In particular, the Committee will examine the adequacy of efforts to protect the integrity of telecommunications networks and commercial use of the Internet, including reviewing programs of the Department of Commerce, FCC, DHS, and others to secure cyberspace. The Committee will examine the adequacy of efforts by the FCC and others to fight child pornography on the Internet, including the role of Internet Service Providers; and the activities of the Department of Justice in providing the necessary law enforcement resources for the discovery and prosecution of Internet child pornography. The Committee will also examine issues regarding the structure of Internet governance, including activities of the Internet Corporation for Assigned Names and Numbers (ICANN).

#### NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

In the 110th Congress, the Committee will review programs under the management of the National Telecommunications and Information Administration (NTIA), including the interoperable communications grant program intended to help the Nation's first responders obtain state-of-the-art communications equipment to effectively communicate with each other in times of disaster. In addition, the Committee will investigate the adequacy and effectiveness of NTIA's converter box program intended to help consumers in the government-driven transition to digital television. NTIA's actions related to Internet governance will also be examined.

#### CORPORATION FOR PUBLIC BROADCASTING

In the 110th Congress, the Committee will continue to review activities and funding of the Corporation for Public Broadcasting, the Public Broadcasting System, National Public Radio, and Public Radio International, with a particular focus on maintaining the independence of these important functions and assuring that the



public interest remains paramount in their administration and management.

## HOMELAND SECURITY ISSUES

### CRITICAL INFRASTRUCTURE ASSURANCE ACTIVITIES

In the 110th Congress, the Committee intends to review infrastructure assurance efforts, including the Department of Homeland Security efforts to increase critical infrastructure resilience, in areas within the Committee's jurisdiction.

### NUCLEAR SMUGGLING

In the 110th Congress, the Committee will review Federal Government and private sector efforts to detect the illicit transportation of nuclear materials and devices at border crossings, seaports, and mail facilities. The Committee's review will analyze and assess DHS, Customs and Border Patrol, DOE, and other Government efforts and equipment aimed at detecting and preventing the smuggling of dangerous commerce, particularly nuclear and radiological weapons of mass destruction. The Committee will also review measures taken by private sector companies to detect and prevent the use of their facilities and equipment for such purposes.

### EMERGENCY PREPAREDNESS AND BIOTERRORISM

In the 110th Congress, the Committee will conduct an extensive examination of the efforts and funds expended to protect the U.S. from pandemic disease and biological and chemical weapons. The Committee will review the implementation by HHS of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and the coordination between HHS and DHS with respect to setting priorities and goals for bioterrorism-related research and preparedness activities, as well as overseeing activities and funding. The Committee will review HHS efforts against avian influenza and other pandemic diseases; Federal subsidies and other funding provided to pharmaceutical companies to develop vaccines; and particularly, the status of the development of anthrax and smallpox vaccines.

### PUBLIC SAFETY COMMUNICATIONS OPERATIONS

In the 110th Congress, the Committee will examine whether the communications needs of first responders are being met. The Committee will examine efforts to ensure that first responders have interoperable communications capabilities with local, State, and Federal public safety officials. The Committee will also consider whether first responders have an adequate amount of and are effectively utilizing spectrum for voice, video, and data transmissions.

### IMPLEMENTATION OF GOVERNMENT-WIDE CYBER SECURITY PROGRAM

The Homeland Security Act of 2002 included a separate legislative provision entitled the Federal Information Security Manage-

ment Act, which reauthorized a government-wide cyber security program under the direction of the Office of Management and Budget (OMB). During the 110th Congress, the Committee will review the management and implementation of the cyber security provisions of the Homeland Security Act.

## MISCELLANEOUS ISSUES

### FEDERAL AGENCY MANAGEMENT

As part of the Committee's oversight responsibilities generally and as an expansion of its review of conflict-of-interest policies in particular, the Committee will examine ethics policies and practices at Federal agencies and commissions within the Committee's jurisdiction. The Committee will also examine agency procurement practices and contracts, risk assessment practices, and agency implementation of laws and regulations.

### IMPLEMENTATION OF THE COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT PLAN FOR THE 110TH CONGRESS

#### COMMERCE, TRADE, AND CONSUMER PROTECTION ISSUES

##### THE CONSUMER PRODUCT SAFETY COMMISSION

In the 110th Congress, the Committee conducted a broad review of the management, budget, operations, activities, performance, and statutory authorities of the Consumer Product Safety Commission (CPSC) with regard to safeguarding consumers, particularly children, from faulty or dangerous products. In response to the record number of recalls in 2007 of China-made toys containing dangerous magnets and high levels of lead, the Committee expanded its inquiry to include the effectiveness of import and export regulations, as well as safety-standard setting and certifying organizations. The Committee used this record to write landmark reform legislation that was signed into law by the President.

##### THE FEDERAL TRADE COMMISSION

In the 110th Congress, the Committee reviewed actions of the Federal Trade Commission (FTC) with respect to mergers and acquisitions, telemarketing, unfair or deceptive advertising, Internet safety, and identity theft and privacy. The Committee used the telemarketing record to write two bills that have been signed into law: the first eliminated the automatic removal of phone numbers registered on the popular "Do-Not-Call" registry, while the other Act allows the FTC to continue collecting the fees necessary to maintain and enforce that registry. Also based on the Committee's investigation and signed into law by the President was legislation providing \$5 million to the FTC for an Internet safety campaign aimed at children. The Committee's review of deceptive practices produced legislation to protect consumers who purchase calling cards by enhancing the ability of the FTC to combat widespread abusive and deceptive marketing practices, such as hidden charges and false advertising of calling minutes. This bill passed the House

with no action by the Senate. The Committee's identity theft and privacy review produced two bills, neither of which became a public law; legislation that would protect Internet users from unknowing transmission of their personally identifiable information through spyware programs passed the House with no action by the Senate, while legislation that would protect consumers by prohibiting the public display and purchase and sale of Social Security numbers in interstate commerce to commit fraud, deception, crime, or financial harm to individuals was referred to the Committee on Ways and Means for further consideration. No further action was taken on this latter legislation.

#### **NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

In the 110th Congress, the Committee reviewed the activities of the National Highway Traffic Safety Administration, particularly as they pertain to motor vehicle-related safety.

#### **TRADE**

In the 110th Congress, the Committee monitored and examined both multilateral trade agreements (including World Trade Organization agreements) and bilateral agreements as those agreements relate to industries, commodities, and services within the Committee's jurisdiction. In particular, the Committee held a joint oversight hearing with the Committee on Ways and Means and the Committee on Financial Services to consider the impact of currency manipulation practices by China and Japan on the U.S. economy, businesses, and workers.

#### **TRAVEL AND TOURISM**

In the 110th Congress, the Committee reviewed issues affecting the travel and tourism industries, as well as means to encourage and promote the United States as a travel destination for international and domestic passengers. This examination included the operations of various government departments, including the policies, procedures, and administration of programs related to passports, visas, and other travel documentation or restrictions. On the basis of this record, the Committee reported legislation to establish a nonprofit corporation to promote travel to the United States. The bill passed the House but no further action was taken.

#### **SPORTS**

In the 110th Congress, the Committee examined issues arising from the commerce of professional and amateur athletics, including the lack of diversity in leadership positions in the National Collegiate Athletic Association, the use of performance enhancing drugs by professional athletes, and abuses permeating thoroughbred horse racing. The Committee examined the applicable regulatory structures and the possible need for Federal regulation.

#### **ENERGY AND AIR QUALITY ISSUES**

In the 110th Congress, the Committee reviewed a large number of management, budget, policy and other matters in the areas of

energy and air quality, consistent with the oversight plan provided by the Committee at the outset of the Congress. The Subcommittee on Energy and Air Quality, through hearings, correspondence, and other communications with the executive branch and private sector, conducted a number of oversight activities, and accordingly wrote and approved legislation where needed.

Independently, and in conjunction with the Oversight and Investigations Subcommittee, the Subcommittee on Energy and Air Quality reviewed and developed legislative proposals to address the effects of speculation and the lack of transparency and regulation in international oil markets.

In more than 20 hearings, the Subcommittee examined both the strengths and weaknesses of various approaches to the issue of climate change, including crucial systems such as trading schemes and emissions allowances in cap and trade systems, and the role of different levels of government in reducing greenhouse gas emissions. The Subcommittee produced four white papers on these matters, and crafted draft legislation to reduce U.S. greenhouse gas emissions by up to 80 percent by the year 2050.

The Subcommittee reviewed matters relating to the supply, distribution, and conservation of energy and the role of various Federal agencies pertaining to the adequacy and reliability of the Nation's energy systems, both in terms of management of the Nation's electric grid, and its vulnerability to cybersecurity attacks.

The Subcommittee also subjected to scrutiny, for the first time in years, the budget and priorities of the Environmental Protection Agency, the role of science in Agency decisions, and the lack of transparency in many of its operations. For example, efforts by the Subcommittee forestalled EPA efforts to close its regional libraries.

### **ENVIRONMENT AND HAZARDOUS MATERIALS ISSUES**

During the 110th Congress, the Committee endeavored, through vigorous oversight, to ensure that the Environmental Protection Agency (EPA) effectively performs its mission of protecting the public health and environment. As part of that effort, the Committee also worked to ensure that EPA also has the resources it needs to do its job.

Oversight hearings were held on EPA's proposed rules for geologic sequestration of carbon dioxide. The Subcommittee examined the potential storage capacity in deep subsurface geologic formations in the United States. The Committee also conducted vigorous oversight of EPA's efforts to enforce hazardous waste laws at Department of Defense facilities, in order to facilitate cleanup actions.

The Committee looked into EPA's Office of Inspector General proposed buyout of employees and office closings. The buyout plan would have significantly reduced an important division of EPA that prevents waste, fraud, and abuse at the agency. Due to efforts by the Committee and in close cooperation with the Committee on Appropriations, the buyout program was abandoned; no additional offices were closed and the budget was increased.

A proposed EPA rule that would eliminate reporting requirements for air emissions of ammonia and hydrogen sulfide from animal waste at large factory farms or Concentrated Animal Feeding

Operations (CAFOs) was examined in a September 24, 2008, hearing.

## **HEALTH AND HEALTHCARE ISSUES**

### **FOOD AND DRUG ADMINISTRATION**

In the 110th Congress, the Committee conducted a broad review of the management, budget, operations, activities, performance, and statutory authorities of the Food and Drug Administration (FDA) with regard to post-market safety of pharmaceuticals, user fees for the review of drugs and medical devices, pediatric drug testing, and public access to clinical trials information. Based on the Committee's work, legislation was drafted and signed into law by the President that provides FDA with new authorities to monitor and act on postmarket safety concerns, and that renew drug and medical devices user fees, reauthorizes and expands pediatric drug testing incentives and mandates, and creates a registry of information about clinical trials.

Additionally, the Committee reviewed the FDA's authority and resources related to the review of animal drugs, including holding a hearing on legislation proposed by the Administration. Based on that review, the Committee drafted legislation that was signed into law to revise and extend the animal drug user fee program, to establish a program of fees for the review of generic new animal drugs, and to expand available information about the use of antibiotics in food-producing animals.

Threats to the safety of the Nation's food and drug supply were highlighted when adulterated wheat gluten imported from China and used for pet food sickened or killed a number of dogs and cats. Subsequently, contaminated heparin produced in Chinese facilities was found to have caused the deaths of more than one hundred people. In addition, outbreaks of *E. coli* in spinach, *Salmonella* in peanut butter, and botulism in chili sauce in the United States brought renewed attention to the risks posed by accidental food contamination.

The Committee also reviewed the adequacy of the funding and authorities to protect American consumers from unsafe food, drugs, devices, and cosmetics, with a particular focus on the safety of imported products. The review led to the introduction of legislation to improve the safety of imported products. Four hearings were held on this legislation with further action expected in the 111th Congress.

Further information about the Committee's efforts regarding the safety of the Nation's drug supply and food supply can be found in the Subcommittee on Health and Subcommittee on Oversight and Investigations sections of this report.

### **CENTERS FOR MEDICARE AND MEDICAID SERVICES**

In the 110th Congress, in response to a wave of acquisitions of large, publicly held nursing home chains by private equity firms and the development of new and opaque investment models, the Subcommittee on Oversight and Investigations launched an inves-

tigation into the effect of new ownership structures. As a result of the investigation and hearing:

- In February 2008, CMS publicly disclosed the names of 147 nursing homes, including those terminated from the Medicare and Medicaid programs for persistent failure to improve.
- Shortly before the hearing, CMS linked the poor performer list to its “Nursing Home Compare” Web site for consumers.
- Shortly after the hearing, CMS implemented a more informative “five-star” rating system on its Web site to help families evaluate the quality of care in nursing homes.
- In August 2008, CMS began requiring its quality improvement contractors to work closely with and provide technical assistance to chronically poor performing nursing homes.

• Legislation has been introduced in the Senate to require ownership information and expand legal protections for residents and their families, with similar legislation being drafted in the House.

The Committee investigated predatory sales practices in the Medicare Advantage program. During a hearing on the topic, testimony was heard from victims of Medicare Advantage (MA) marketing abuses by sales agents, as well as industry representatives, State regulators, and the Director of the MA program at the Centers for Medicare and Medicaid Services. As a result of the investigation and hearings:

- CMS imposed a marketing moratorium on seven insurance companies associated with some of the more egregious sales practices targeting seniors.
- In September 2007, CMS issued the first monetary penalties against MA plans for marketing abuses.
- On October 1, 2007, as a result of the Chairman’s request, CMS made public the corrective action plans it had imposed on various MA plans.

• In fall 2007, CMS launched a “secret shopper” program to ensure that plans were complying with CMS’ marketing guidelines.

On May 20, 2008, the majority staff issued a staff report on additional problems with the design, oversight, and administration of MA plans. Two months later, on July 15, 2008, Congress overrode the President’s veto of H.R. 6331, the “Medicare Improvements for Patients and Providers Act of 2008.” This legislation addresses problems identified by the Subcommittee and prohibits MA and prescription drug plans and their sales agents from selling their products via door-to-door sales; cold calling; cross selling non-health-related products; offering meals of any sort; and conducting sales activities of any kind at educational events or in healthcare settings. The bill also calls for limits on commissions and gifts, and mandates that agents be licensed and appointed as required under State law and receive annual training on Medicare and the specific MA and Part D plans they sell.

## HURRICANE KATRINA AND HEALTH SERVICES

Hurricane Katrina, which made landfall near the Louisiana-Mississippi border on the morning of August 29, 2005, and the subsequent flooding caused by the failure of the New Orleans levee system resulted in one of the largest natural disasters to hit the United States.

In the 110th Congress, the Committee focused significant efforts on stabilizing and restoring the New Orleans healthcare system, recognizing that the availability of healthcare services and healthcare-related jobs, and the restoration of access for the uninsured as well as the insured, were essential to the region's long-term recovery. As a result of the investigation and hearings:

- HHS released \$100 million in Deficit Reduction Act healthcare monies to establish and maintain primary care clinics throughout the metropolitan area over the next 3 years, and issued grants to support retention and recruitment of medical providers to expand access to medical services in the region.
- In November 2007, HHS began work on revisions to its Medicare graduate medical education rules to address community disaster situations involving the loss of a major teaching hospital.
- The VA entered into an agreement with the City of New Orleans to begin construction of a new hospital, as plans developed for creation of a new medical district in downtown New Orleans that would include a new VA Hospital and a new public teaching hospital. The co-location of the two hospitals will facilitate the sharing of support services and other resources.
- The Health Resources and Services Administration provided technical assistance to providers in areas ravaged by the Hurricane to increase healthcare access for underserved communities.
- In September 2008, Congress approved, and the President signed, legislation appropriating \$600 million in Social Services Block Grant monies that will be available to the State of Louisiana for assistance with stabilization of its healthcare system. The Congressional relief package provides flexible funding to States impacted by natural disasters in 2008, as well as States such as Louisiana still struggling to recover from Hurricanes Katrina and Rita.

#### NATIONAL INSTITUTES OF HEALTH

In the 110th Congress, the Committee conducted an oversight hearing related to implementation of the National Institutes of Health Reform Act of 2006, which is scheduled for reauthorization in the 111th Congress. The hearing examined the Agency's progress in meeting the goals of the legislation, which include improving interdisciplinary coordination, the translation of scientific studies into patient care, transparency, and accountability.

#### CENTERS FOR DISEASE CONTROL AND PREVENTION

In the 110th Congress, the Subcommittee on Oversight and Investigations investigated the management, operation, and activities of DHS' National Biosurveillance Integration System (NBIS) of the Department of Homeland Security (DHS). NBIS was created by DHS as a means of integrating bio-surveillance information across the entire government. The purpose of the investigation was to assess the adequacy of DHS' biosurveillance efforts, the extent to which biosurveillance systems have been integrated thus far, and whether biosurveillance resources are being effectively used. According to unofficial sources, the NBIS is in fact a hollow shell that contributes little if anything to the DHS mission and duplicates efforts of the Department of Health and Human Services, Centers for

Disease Control and Prevention and other government agencies. Records were received in response to the initial record request and are currently under review. The next steps are site visits, interviews, and additional records requests.

### **TELECOMMUNICATIONS AND INTERNET ISSUES**

During the 110th Congress, the Subcommittee on Telecommunications and the Internet implemented the Committee's oversight plan for the 110th Congress through oversight hearings, correspondence with relevant executive branch offices and independent agencies, and enlisting the Government Accountability Office (GAO) to commence investigations.

The Subcommittee conducted oversight of the activities of the Federal Communications Commission (FCC) and the National Telecommunications and Information Administration (NTIA). The Subcommittee held four FCC oversight hearings at which all five FCC Commissioners testified. These hearings examined the effect of the FCC's decisions on increasing competition, increasing the availability of advanced technologies and services, efficiently managing spectrum, protecting consumers, assuring adequate emergency communications capability, and otherwise serving the public interest, convenience and necessity. The Subcommittee held an oversight hearing examining programs under NTIA's management, including the interoperable communications grant program intended to help the Nation's first responders obtain state-of-the-art communications equipment to effectively communicate with each other in times of disaster. The Subcommittee also focused on the efforts of the FCC and the NTIA to transition the Nation from analog to digital broadcasting and held six hearings regarding this transition.

The Subcommittee worked to assure the safe, secure, and robust functioning of the Internet, including by ensuring proper Department of Commerce oversight of the Internet Corporation for Assigned Names and Numbers. The Subcommittee also investigated waste, fraud, and abuse in the Universal Service Fund, including by holding an oversight hearing examining the program and requesting the GAO's assistance in examining waste, fraud, and abuse in the program.

### **HOMELAND AND SECURITY ISSUES**

In the 110th Congress, the Subcommittee on Oversight and Investigations held three hearings examining security at the Department of Energy's national labs, mostly relating to security at Los Alamos National Lab (LANL). Each hearing examined an array of concerns surfaced by both internal and external audits and investigations relating to both how LANL secures classified and other sensitive information and its ability to mitigate against all forms of physical intrusion, including a terrorist attack. As LANL has had longstanding security problems for more than a decade, the Subcommittee continued its direct oversight of its activities including requesting a number of comprehensive audits and reviews by GAO.

Since the attacks of September 11, 2001, the Committee has been investigating the capacity of the Department of Homeland Security



(DHS) to target and inspect sea cargo containers bound for the United States from foreign ports in order to prevent possible smuggling of nuclear weapons or radiological materials. On September 18, 2007, the Committee held a hearing entitled, "Nuclear Terrorism Prevention: Status Report on the Federal Government's Assessment of New Radiation Detection Monitors," which reviewed the GAO's critical assessment of the Domestic Nuclear Detection Office's (DNDO) efforts to test, certify, and deploy a new generation of radiation portal monitors known as "Advanced Spectroscopic Portals" (ASPs).

As the result of the Subcommittee's investigation, the legislation making appropriations for the Department of Homeland Security for fiscal years 2008 and 2009 prohibited DNDO from making full scale procurement until it conducted additional testing, and the Secretary certified that these new machines provided a "significant increase in operational effectiveness" and the National Academy of Sciences concurred. This action saved taxpayers \$1.2 billion by blocking the purchase of machinery that was not proven to be ready for deployment at our ports and border crossings.

The Subcommittee made considerable efforts to examine how well the Department of Energy, including the Nation's key weapons labs, were positioned to prevent unauthorized cyber intrusions and data theft. These efforts were the subject of several hearings and are discussed in detail elsewhere in this report. Nonetheless, because of ongoing concerns raised by DOE officials and other cybersecurity experts about the Federal government's vulnerability in this area generally, the Subcommittee began discussions with GAO to develop plans to broaden its vulnerability assessment of other key agencies and Departments under the Committee's jurisdiction. Of particular concern are those agencies whose IT system was demonstrated to have profound weaknesses in the course of the Subcommittee's other investigations. As the 110th Congress came to a close, GAO had begun to plan important cyber-related assessments of key agencies and Departments.



## APPENDIX I

### LEGISLATIVE ACTIVITIES

#### COMMITTEE ON ENERGY AND COMMERCE

#### Statistical Summary of Committee Activities

Total Bills and Resolutions Referred to Committee .....	1531
Public Laws .....	58
Bills and Resolutions Reported to the House .....	59
Hearings Held:	
Days of Hearings .....	170
Full Committee .....	6
Subcommittee on Commerce, Trade, and Consumer Protection ...	16
Subcommittee on Energy and Air Quality .....	31
Subcommittee on Environment and Hazardous Materials .....	9
Subcommittee on Health .....	40
Subcommittee on Oversight and Investigations .....	36
Subcommittee on Telecommunications and the Internet .....	32
Hours of Sitting .....	535:29
Full Committee .....	17:02
Subcommittee on Commerce, Trade, and Consumer Protection ...	51:07
Subcommittee on Energy and Air Quality .....	85:32
Subcommittee on Environment and Hazardous Materials .....	23:11
Subcommittee on Health .....	113:54
Subcommittee on Oversight and Investigations .....	154:07
Subcommittee on Telecommunications and the Internet .....	90:36
Legislative Markups:	
Days of Markups .....	47
Full Committee .....	24
Subcommittee on Commerce, Trade, and Consumer Protection ...	5
Subcommittee on Energy and Air Quality .....	2
Subcommittee on Environment and Hazardous Materials .....	3
Subcommittee on Health .....	11
Subcommittee on Telecommunications and the Internet .....	2
Hours of Sitting .....	123:28
Full Committee .....	79:39
Subcommittee on Commerce, Trade, and Consumer Protection ...	5:27
Subcommittee on Energy and Air Quality .....	8:38
Subcommittee on Environment and Hazardous Materials .....	1:50
Subcommittee on Health .....	25:54
Subcommittee on Telecommunications and the Internet .....	2:00
Business Meetings:	
Days of Meetings .....	4
Subcommittee on Oversight and Investigations .....	4
Hours of Sitting .....	2:00
Subcommittee on Oversight and Investigations .....	2:00



## APPENDIX II

### COMMITTEE ON ENERGY AND COMMERCE

#### PUBLIC LAWS

This list includes: (1) legislation on which the Committee on Energy and Commerce acted directly; (2) legislation developed through Committee participation in House-Senate conferences; and (3) legislation which included provisions within the Committee's jurisdiction, including legislation enacted by reference as part of other legislation.

Public Laws: 58

Public Law	Date Approved	Bill	Title
110-18	April 20, 2007	H.R. 1132	National Breast and Cervical Cancer Early Detection Program Reauthorization Act of 2007
110-23	May 3, 2007	H.R. 727	Trauma Care Systems Planning and Development Act of 2007
110-49	July 26, 2007	H.R. 556	Foreign Investment and National Security Act of 2007
110-53	August 3, 2007	H.R. 1	Implementing Recommendations of the 9/11 Commission Act of 2007
110-54	August 3, 2007	H.R. 2429	To amend Title XVIII of the Social Security Act to provide and exception to the 60-day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces
110-85	September 27, 2007	H.R. 3580	Food and Drug Administration Amendments of 2007
110-90	September 29, 2007	H.R. 3668	TMA, Abstinence Education, and QI Programs Extension Act of 2007
110-140	December 19, 2007	H.R. 6	Energy Independence and Security Act of 2007
110-144	December 21, 2007	H.R. 710	Charlie W. Norwood Living Organ Donation Act
110-150	December 21, 2007	S. 597	To amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research
110-154	December 21, 2007	S. 2484	To rename the National Institute of Child Health and Human Development as the Eunice Kennedy Shriver National Institute of Child Health and Human Development
110-170	December 26, 2007	S. 1916	Chimp Haven is Home Act
110-173	December 29, 2007	S. 2499	Medicare, Medicaid, and SCHIP Extension Act of 2007
110-187	February 15, 2008	H.R. 3541	Do-Not-Call Improvement Act of 2007
110-188	February 15, 2008	S. 781	Do-Not-Call Registry Fee Extension Act of 2007
110-189	February 28, 2008	H.R. 1216	K.T. Safety Act of 2007
110-202	April 23, 2008	S. 845	Safety of Seniors Act of 2007
110-204	April 24, 2008	S. 1858	Newborn Screening Saves Lives Act of 2007
110-206	April 28, 2008	S. 793	Traumatic Brain Injury Act of 2008
110-232	May 19, 2008	H.R. 6022	Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008
110-233	May 21, 2008	H.R. 493	Genetic Information Nondiscrimination Act of 2008
110-234	May 22, 2008	H.R. 2419	Food, Conservation, and Energy Act of 2008
110-237	May 27, 2008	H.R. 5919	To make technical corrections regarding the Newborn Screening Saves Lives Act of 2007
110-246	June 18, 2008	H.R. 6124	Food, Conservation, and Energy Act of 2008
110-252	June 30, 2008	H.R. 2642	Supplemental Appropriations Act of 2008
110-255	June 30, 2008	S. 2146	To authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction supplemental environmental projects
110-275	July 15, 2008	H.R. 6331	Medicare Improvements for Patients and Providers Act of 2008
110-278	July 17, 2008	H.R. 814	Children's Gasoline Burn Prevention Act

## Public Laws: 58—Continued

Public Law	Date Approved	Bill	Title
110–283	July 23, 2008	H.R. 3403	New and Emerging Technologies 911 Improvement Act of 2008
110–285	July 29, 2008	H.R. 1553	Caroline Pryce Walker Conquer Childhood Cancer Act of 2008
110–289	July 30, 2008	H.R. 3221	Housing and Economic Recovery Act of 2008
110–293	July 30, 2008	H.R. 5501	Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008
110–295	July 30, 2008	S. 2607	To make a technical correction to section 3009 of the Deficit Reduction Act of 2005
110–314	August 14, 2008	H.R. 4040	Consumer Product Safety Improvement Act of 2008
110–316	August 14, 2008	H.R. 6432	To amend the Federal Food, Drug, and Cosmetic Act to revise and extend the Animal Drug User Fee Program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007
110–325	September 25, 2008	S. 3406	ADA Amendments Act of 2008
110–339	October 3, 2008	S. 1760	Healthy Start Reauthorization Act of 2007
110–343	October 3, 2008	H.R. 1424	Emergency Economic Stabilization Act of 2008
110–345	October 7, 2008	H.R. 1199	Drug Endangered Children Act of 2007
110–354	October 8, 2008	H.R. 1157	Breast Cancer and Environmental Research Act of 2008
110–355	October 8, 2008	H.R. 1343	Health Care Safety Net Act of 2008
110–361	October 8, 2008	H.R. 5265	Paul D. Wellstone Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2008
110–368	October 8, 2008	H.R. 6946	To make a technical correction in the NET 911 Improvement Act of 2008
110–373	October 8, 2008	S. 1382	ALS Registry Act
110–374	October 8, 2008	S. 1810	Prenatally and Postnatally Diagnosed Conditions Awareness Act
110–377	October 8, 2008	S. 2932	Poison Center Support, Enhancement, and Awareness Act of 2008
110–379	October 8, 2008	S. 3560	QI Program Supplemental Funding Act of 2008
110–381	October 9, 2008	H.R. 2851	Michelle's Law
110–385	October 10, 2008	S. 1492	Broadband Data Services Improvement Act
110–392	October 13, 2008	H.R. 1532	Comprehensive Tuberculosis Elimination Act of 2008
110–413	October 14, 2008	H.R. 7198	Stephanie Tubbs Jones Gift of Life Medal Act of 2008
110–414	October 14, 2008	S. 906	Mercury Export Ban Act of 2008
110–415	October 14, 2008	S. 1276	Methamphetamine Production Prevention Act of 2008
110–417	October 14, 2008	S. 3001	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009
110–425	October 15, 2008	H.R. 6353	Ryan Haight Online Pharmacy Consumer Protection Act of 2008
110–426	October 15, 2008	H.R. 6469	Stephanie Tubbs Jones Organ Transplant Authorization Act of 2008
110–452	December 2, 2008	S. 602	Child Safe Viewing Act of 2007
110–457	December 23, 2008	H.R. 7311	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
110–459	December 23, 2008	S. 3663	Short-term Analog Flash and Emergency Readiness Act
110–460	December 23, 2008	S. 3712	To make a technical correction in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

## APPENDIX III

### PART A

#### Printed Hearings of the Committee on Energy and Commerce

Serial No.	Hearing Title	Hearing Date(s)
110-1	Continuing Security Concerns at Los Alamos National Laboratory (Subcommittee on Oversight and Investigations).	January 30, 2007
110-2	Review of the Department of Health and Human Services Fiscal Year 2008 Budget (Full Committee).	April 20, 2007
110-3	The Fiscal Year 2008 Budget Request for the U.S. Department of Energy (Full Committee).	February 6, 2007
110-4	Addressing Climate Change: Views from Private Sector Panels (Subcommittee on Energy and Air Quality).	February 8, 2007
110-5	The Adequacy of the FDA to Assure the Safety of the Nation's Drug Supply (Subcommittee on Oversight and Investigations).	February 13, 2007
110-6	Covering the Uninsured: Through the Eyes of a Child (Subcommittee on Health) .....	March 22, 2007
110-7	The Lack of Diversity in Leadership Positions in NCAA Collegiate Sports (Subcommittee on Commerce, Trade, and Consumer Protection).	February 14, 2007
110-8	The Truth in Caller ID Act (Subcommittee on Telecommunications and the Internet)	March 1, 2007
110-9	Review of the Administration's Energy Proposals for the Transportation Sector (Subcommittee on Energy and Air Quality).	February 28, 2007
110-10	The Digital Future of the United States (Subcommittee on Telecommunications and the Internet).	February 28, 2007
110-11	Environmental Protection Agency Fiscal Year 2008 Budget Request (Subcommittee on Environment and Hazardous Materials and Subcommittee on Energy and Air Quality).	March 1, 7, 2007
110-12	Carbon Capture and Sequestration: An Overview (Subcommittee on Energy and Air Quality).	April 19, 24, 2007
110-13	Exploring Options for Improving the Medicare Physician Payment System (Subcommittee on Health).	May 10, 2007
110-14	Climate Change: Are Greenhouse Gas Emissions from Human Activities Contributing to the Warming of the Planet? (Subcommittee on Energy and Air Quality).	October 2, 2007
110-15	The Genetic Information Nondiscrimination Act (Subcommittee on Health) .....	March 1, 8, 2007
110-16	Combating Pretexting: H.R. 936, the "Prevention of Fraudulent Access to Phone Records Act" (Full Committee).	March 6, 2007
110-17	Post Katrina Health Care: Continuing Concern and Immediate Needs in the New Orleans Region Part 1 (Subcommittee on Oversight and Investigations).	March 6, 2007
110-18	Oversight of the Federal Communications Commission (Subcommittee on Telecommunications and the Internet).	March 7, 2007
110-19	Climate Change and Energy Security: Perspectives from the Automobile Industry (Subcommittee on Energy and Air Quality).	March 8, 2007
110-20	Climate Change: State and Local Perspectives (Subcommittee on Energy and Air Quality).	March 9, 2007
110-21	Combating Spyware: H.R. 964, the "SPY ACT" (Subcommittee on Commerce, Trade, and Consumer Protection).	March 13, 2007
110-22	Climate Change: Perspectives of Utility CEOs (Subcommittee on Energy and Air Quality).	March 14, 2007
110-23	Perspectives on Climate Change (Subcommittee on Energy and Air Quality) .....	March 14, 2007
110-24	Oversight of the National Telecommunications Information Administration and Innovations in Interoperability (Subcommittee on Telecommunications and the Internet).	March 15, 2007
110-25	Insuring Bright Futures: Improving Access to Dental Care and Providing a Healthy Start for Children (Subcommittee on Health).	March 15, 2007

## Printed Hearings of the Committee on Energy and Commerce—Continued

Serial No.	Hearing Title	Hearing Date(s)
110-26	Climate Change: International Issues, Engaging Developing Countries (Subcommittee on Energy and Air Quality).	March 27, 2007
110-27	The Status of the Digital Television Transition (Subcommittee on Telecommunications the Internet).	March 28, 2007 October 17, 31, 2007
110-28	Climate Change: Lessons Learned from the Existing Cap-and-Trade Programs (Subcommittee on Energy and Air Quality).	March 29, 2007
110-29	Reauthorization of the Prescription Drug User Fee Act (Subcommittee on Health) ....	April 17, 2007
110-30	Medicare Program Efficiency and Integrity (Subcommittee on Health) .....	April 18, 2007
110-31	Alternative Transportation Fuels: An Overview (Subcommittee on Energy and Air Quality).	April 18, 2007
110-32	Implementation of EPACT 2005 Loan Guarantee Programs by the Department of Energy (Subcommittee on Energy and Air Quality).	April 24, 2007
110-33	Diminished Capacity: Can the FDA Assure the Safety and Security of the Nation's Food Supply? (Subcommittee on Oversight and Investigations).	April 24, 2007 July 17, 2007 October 11, 2007 November 13, 2007
110-34	Living Without Health Insurance: Why Every American Needs Coverage (Subcommittee on Health).	April 25, 2007
110-35	Perchlorate: Health and Environmental Impacts of Unregulated Exposure (Subcommittee on Environmental and Hazardous Materials).	April 25, 2007
110-36	Achieving-At Long Last-Appliance Efficiency Standards (Subcommittee on Energy and Air Quality).	May 1, 2007
110-37	H.R. 1014, the "Heart Disease Education, Analysis, Research, and Treatment for Women Act" (Subcommittee on Health).	May 1, 2007
110-38	H.R. 20, the "Melanie Blocker-Stokes Postpartum Depression Research and Health Care Act" (Subcommittee on Health).	May 1, 2007
110-39	H.R. 1902, the "Protecting Consumer Access to Generic Drugs Act of 2007" (Subcommittee on Commerce, Trade, and Consumer Protection).	May 2, 2007
110-40	Assessing the Impact of a Safe and Equitable Biosimilar Policy in the United States (Subcommittee on Health).	May 2, 2007
110-41	Facilitating the Transition to a Smart Electric Grid (Subcommittee on Energy and Air Quality).	May 3, 2007
110-42	Alternative Fuels: Current Status, Proposals for New Standards, and Related Infrastructure Issues (Subcommittee on Energy and Air Quality).	May 8, 2007
110-43	Assessing the Safety of Our Nation's Drug Supply (Subcommittee on Health) .....	May 9, 2007
110-44	Protecting Our Children: Current Issues in Children's Product Safety (Subcommittee on Commerce, Trade, and Consumer Protection).	May 15, 2007
110-45	Medicare Savings Programs and Low Income Subsidy: Keeping Medicare's Promise for Seniors and People with Disabilities (Subcommittee on Health).	May 15, 2007
110-46	The 2006 Prudhoe Bay Shutdown: Will Recent Regulatory Changes and BP Management Reforms Prevent Future Failures? (Subcommittee on Oversight and Investigations).	May 16, 2007
110-47	Reauthorization of the Medical Device User Fee and Modernization Act (Subcommittee on Health).	May 16, 2007
110-48	H.R. , A Discussion Draft Addressing Broadband Mapping and Data Collection (Subcommittee on Telecommunications and the Internet).	May 17, 2007
110-49	Programs Affecting Safety and Innovation in Pediatric Therapies (Subcommittee on Health).	May 22, 2007
110-50	Discussion Drafts Concerning Energy Efficiency, Smart Electricity Grid, Energy Policy Act of 2005 Title XVII Loan Guarantees, and Standby Loans for Coal-to-Liquids Projects (Subcommittee on Energy and Air Quality).	May 24, 2007
110-51	Gasoline Prices, Oil Company Profits, and the American Consumer (Subcommittee on Oversight and Investigations).	May 22, 2007
110-52	Legislation to Improve Consumer Product Safety for Children: H.R. 2474, H.R. 1699, H.R. 814, H.R. 1721 (Subcommittee on Commerce, Trade, and Consumer Protection).	June 6, 2007
110-53	Discussion Draft Concerning Alternative Fuels, Infrastructure and Vehicles (Subcommittee on Energy and Air Quality).	June 7, 2007
110-54	H.R. 1328, the "Indian Health Care Improvement Act Amendments of 2007" (Subcommittee on Health).	June 7, 2007
110-55	Discussion Drafts Concerning Prescription Drug User Fee Act Reauthorization and Medical Device User Fee and Modernization Act Reauthorization (Subcommittee on Health).	June 12, 2007



## Printed Hearings of the Committee on Energy and Commerce—Continued

Serial No.	Hearing Title	Hearing Date(s)
110-56	Poisoned Patriots: Contaminated Drinking Water at Camp Lejeune (Subcommittee on Oversight and Investigations).	June 12, 2007
110-57	H.R. 1424, the “Paul Wellstone Mental Health and Addiction Equity Act of 2007” (Subcommittee on Health).	June 15, 2007
110-58	Images Kids See on the Screen (Subcommittee on Telecommunications and the Internet).	June 22, 2007
110-59	H.R. 1524, the “Mercury Export Ban Act of 2007” (Subcommittee on Environment and Hazardous Materials).	June 22, 2007
110-60	Predatory Sales Practices in Medicare Advantage (Subcommittee on Oversight and Investigations).	June 26, 2007
110-61	Wireless Innovation and Consumer Protection (Subcommittee on Telecommunications and the Internet).	July 11, 2007
110-62	Post-Katrina Health Care in the New Orleans Region: Progress and Continuing Concerns—Part 2 (Subcommittee on Oversight and Investigations).	August 1, 2007
110-63	Nuclear Terrorism Prevention: Status Report on the Federal Government’s Assessment of New Radiation Detection Monitors (Subcommittee on Oversight and Investigations).	September 18, 2007
110-64	Answering the Call: Medical Monitoring and Treatment of 9/11 Health Effects (Subcommittee on Health).	September 18, 2007
110-65	Protecting Children from Lead-Tainted Imports (Subcommittee on Commerce, Trade, and Consumer Protection).	September 19, 2007 September 20, 2007
110-66	Issues in Emergency Communications: H.R. 3403, the “911 Modernization and Public Safety Act of 2007” (Subcommittee on Telecommunications and the Internet).	September 19, 2007
110-67	From Imus to Industry: The Business of Stereotypes and Degrading Images (Subcommittee on Commerce, Trade, and Consumer Protection).	September 25, 2007
110-68	H.R. 3610, the “Food and Drug Import Safety Act” (Subcommittee on Health) .....	September 26, 2007
110-69	H.R. 1108, the “Family Smoking and Prevention and Tobacco Control Act” (Subcommittee on Health).	October 3, 2007
110-70	Germs, Viruses, and Secrets: The Silent Proliferation of Bio-laboratories in the United States (Subcommittee on Oversight and Investigations).	October 4, 2007
110-71	H.R. 1103 and H.R. 1055: Environmental Justice and the Toxic Release Inventory Reporting Program—Communities Have a Right to Know (Subcommittee on Environment and Hazardous Materials).	October 4, 2007
110-72	Enhancing FTC Consumer Protection in Financial Dealings, with Telemarketers, and on the Internet (Subcommittee on Commerce, Trade, and Consumer Protection).	October 23, 2007
110-73	NASPER: Why Has the National All Schedules Prescription Electronic Reporting Act Not Been Implemented? (Subcommittee on Oversight and Investigations).	October 24, 2007
110-74	FDA Foreign Drug Inspection Program: A System at Risk (Subcommittee on Oversight and Investigations).	November 1, 2007
110-75	Comprehensive Children’s Product Safety and Consumer Product Safety Commission Reform Legislation (Subcommittee on Commerce, Trade, and Consumer Protection).	November 6, 2007
110-76	H.R. 1343, the “Health Centers Renewal Act of 2007”; H.R. 2915, the “National Health Service Corps Scholarship and Loan Repayment Programs Reauthorization Act of 2007”; and H.R. 4230, the “School-Based Health Clinic Act of 2007” (Subcommittee on Health).	December 4, 2007
110-77	Oversight of the Federal Communications Commission—Media Ownership (Subcommittee on Telecommunications and the Internet).	December 5, 2007
110-78	Energy Speculation: Is Greater Regulation Necessary to Stop Price Manipulation? (Subcommittee on Oversight and Investigations).	December 12, 2007
110-79	Helping Families with Needed Care: Medicaid’s Critical Role for Americans with Disabilities (Subcommittee on Health).	January 16, 2008
110-80	Administration Perspectives on United Nations Climate Change Conference in Bali (Subcommittee on Energy and Air Quality).	January 17, 2008
110-81	H.R. 1232, the “Veterinary Public Health Workforce Expansion Act of 2007” (Subcommittee on Health).	January 23, 2008
110-82	Combating Nuclear Proliferation: The Effectiveness of the Department of Energy’s Initiatives for Proliferation Prevention (IPP) Program (Subcommittee on Oversight and Investigations).	January 23, 2008
110-83	Science and Mission at Risk: FDA’s Self-Assessment (Subcommittee on Oversight and Investigations).	January 29, 2008
110-84	Public, Educational, and Governmental (PEG) Services in the Digital Age (Subcommittee on Telecommunications and the Internet).	January 29, 2008

## Printed Hearings of the Committee on Energy and Commerce—Continued

Serial No.	Hearing Title	Hearing Date(s)
110–85	Covering Uninsured Kids: Missed Opportunities for Moving Forward (Subcommittee on Health).	January 29, 2008
110–86	Department of Energy's Fiscal Year 2009 Budget Proposal (Full Committee) .....	February 7, 2008
110–87	Ketek Clinical Study Fraud: What Did Aventis Know? (Subcommittee on Oversight and Investigations).	February 12, 2008
110–88	Status of the DTV Transition: 370 Days and Counting (Subcommittee on Telecommunications and the Internet).	February 13, 2008
110–89	H.R. 3754: Authorizing Supplemental Environmental Projects to Incent Reductions of Diesel Emissions (Subcommittee on Energy and Air Quality).	February 13, 2008
110–90	A Review of the Department of Health and Human Services Fiscal Year 2009 Budget (Full Committee).	February 28, 2008
110–91	Covering Uninsured Kids: Reversing Progress Already Made (Subcommittee on Health).	February 26, 2008
110–92	Contaminated Food: Private Sector Accountability (Subcommittee on Oversight and Investigations).	February 26, 2008
110–93	Drugs in Sports: Compromising the Health of Athletes and Undermining the Integrity of Competition (Subcommittee on Commerce, Trade, and Consumer Protection).	February 27, 2008
110–94	Department of Commerce Fiscal Year 2009 Budget (Full Committee) .....	March 13, 2008
110–95	Discussion Draft on Wireless Consumer Protection and Community Broadband Empowerment (Subcommittee on Telecommunications and the Internet).	February 27, 2008
110–96	S. 742, the "Ban Asbestos in America Act of 2007" and Draft Legislation to Ban Asbestos in Products (Subcommittee on Environment and Hazardous Materials).	February 28, 2008
110–97	Climate Change: Competitiveness Concerns and Prospects for Engaging Developing Countries (Subcommittee on Energy and Air Quality).	March 5, 2008
110–98	Competition in the Sports Programming Marketplace (Subcommittee on Telecommunications and the Internet).	March 5, 2008
110–99	Regulatory Failure: Must America Live with Unsafe Food? (Subcommittee on Oversight and Investigations).	March 12, 2008
110–100	The Role of Private Equity in the Communications Marketplace (Subcommittee on Telecommunications and the Internet).	March 11, 2008
110–101	The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006: Implementation Review and Discussion of Safety Reassessment Intervals for Natural Gas Pipelines (Subcommittee on Energy and Air Quality).	March 12, 2008
110–102	Online Virtual Worlds: Applications and Avatars in a User-Generated Medium (Subcommittee on Telecommunications and the Internet).	April 1, 2008
110–103	Selling the Department of Energy's Depleted Uranium Stockpile: Opportunities and Challenges (Subcommittee on Oversight and Investigations).	April 3, 2008
110–104	H.R. 5613, the "Protecting the Medicaid Safety Net Act of 2008" (Subcommittee on Health).	April 3, 2008
110–105	Strengths and Weaknesses of Regulating Greenhouse Gas Emissions Using Existing Clean Air Act Authorities (Subcommittee on Energy and Air Quality).	April 10, 2008
110–106	Oversight of the Federal Communications Commission: The 700 Mhz Auction (Subcommittee on Telecommunications and the Internet).	April 15, 2008
110–107	FDA's Foreign Drug Inspection Program: Weaknesses Place Americans at Risk (Subcommittee on Oversight and Investigations).	April 22, 2008
110–108	Discussion Draft of the "Food and Drug Administration Globalization Act"—Food Provisions (Subcommittee on Health).	April 24, 2008
110–109	The Heparin Disaster: Chinese Counterfeits and American Failures (Subcommittee on Oversight and Investigations).	April 29, 2008
110–110	Draft Legislation Enhancing Access to Broadband Technology and Services for Persons with Disabilities (Subcommittee on Telecommunications and the Internet).	May 1, 2008
110–111	Discussion Draft of the "Food and Drug Administration Globalization Act"—Drug Safety (Subcommittee on Health).	May 1, 2008
110–112	H.R. 5353, the "Internet Freedom Preservation Act of 2008" (Subcommittee on Telecommunications and the Internet).	May 6, 2008
110–113	The Renewable Fuels Standard: Issues, Implementation, and Opportunities (Subcommittee on Energy and Air Quality).	May 6, 2008
110–114	Direct-to-Consumer Advertising: Marketing, Education, or Deception? (Subcommittee on Oversight and Investigations).	May 8, 2008
110–115	Stem Cell Science: The Foundation for Future Cures (Subcommittee on Health) .....	May 8, 2008
110–116	In the Hands of Strangers: Are Nursing Home Safeguards Working? (Subcommittee on Oversight and Investigations).	May 15, 2008

## Printed Hearings of the Committee on Energy and Commerce—Continued

Serial No.	Hearing Title	Hearing Date(s)
110–117	Discussion Draft of the “Food and Drug Administration Globalization Act”—Device and Cosmetic Safety Provisions (Subcommittee on Health).	May 14, 2008
110–118	H.R. 5998, the “Protecting Children’s Health Coverage Act of 2008” (Subcommittee on Health).	May 15, 2008
110–119	H.R. 5632, To Prohibit the Importation of Certain Low-Level Radioactive Waste Into the United States (Subcommittee on Energy and Air Quality).	May 20, 2008
110–120	Germs, Viruses, and Secrets: Government Plans to Move Exotic Disease Research to the Mainland United States (Subcommittee on Oversight and Investigations).	May 22, 2008
110–121	H.R. 1157, the “Breast Cancer and Environmental Research Act of 2007”; and H.R. 758, the “Breast Cancer Patient Protection Act of 2007” (Subcommittee on Health).	May 21, 2008
110–122	Discussion Draft of Health Information Technology and Privacy Legislation (Subcommittee on Health).	June 4, 2008
110–123	Committee Prints on Administration Legislative Proposals on the Animal Drug User Fee Act Amendments of 2008 and the Animal Generic Drug User Fee Act of 2008 (Subcommittee on Health).	June 5, 2008
110–124	Status of the DTV Transition: 252 Days and Counting (Subcommittee on Telecommunications and the Internet).	June 10, 2008
110–125	Safety of Phthalates and Bisphenol-A in Everyday Consumer Products (Subcommittee on Commerce, Trade, and Consumer Protection).	June 10, 2008
110–126	American Lives Still at Risk: When Will FDA’s Food Protection Plan Be Fully Funded and Implemented? (Subcommittee on Oversight and Investigations).	June 12, 2008
110–127	H.R. 5533, the “Chemical Facilities Act of 2008”, H.R. 5577, the “Chemical Facility Anti-Terrorism Act of 2008” (Subcommittee on Environment and Hazardous Materials).	June 12, 2008
110–128	Energy Speculation: Is Greater Regulation Necessary to Stop Price Manipulation? Part 2 (Subcommittee on Oversight and Investigations).	June 23, 2008
110–129	Breeding, Drugs, and Breakdowns: The State of Thoroughbred Horseracing and the Welfare of the Thoroughbred Racehorse (Subcommittee on Commerce, Trade, and Consumer Protection).	June 19, 2008
110–130	Legislative Proposals to Reduce Greenhouse Gas Emissions: An Overview (Subcommittee on Energy and Air Quality).	June 19, 2008
110–131	The Future of Universal Service: To Whom, By Whom, For What, and How Much? (Subcommittee on Telecommunications and the Internet).	June 24, 2008
110–132	H.R. 3014, the “Health Equity and Accountability Act of 2007” (Subcommittee on Health).	June 24, 2008
110–133	Climate Change: Costs of Inaction (Subcommittee on Energy and Air Quality) .....	June 26, 2008
110–134	H.R. 6258, The Carbon Capture and Storage Early Deployment Act (Subcommittee on Energy and Air Quality).	July 10, 2008
110–135	Next Steps Toward Permanent Nuclear Waste Disposal (Subcommittee on Energy and Air Quality).	July 15, 2008
110–136	Climate Benefits of Improved Building Energy Efficiency (Subcommittee on Energy and Air Quality).	July 17, 2008
110–137	What Your Broadband Provider Knows About Your Web Use: Deep Packet Inspection and Communications Laws and Policies (Subcommittee on Telecommunications and the Internet).	July 17, 2008
110–138	Issues in Telecommunications Competition (Subcommittee on Telecommunications and the Internet).	July 22, 2008
110–139	H.R. 5268, State Fiscal Relief in an Economic Downturn (Subcommittee on Health)	July 22, 2008
110–140	Long-Term Care Insurance: Are Consumers Protected for the Long Term? (Subcommittee on Oversight and Investigations).	July 24, 2008
110–141	Carbon Sequestration: Risks, Opportunities, and Protection of Drinking Water (Subcommittee on Environment and Hazardous Materials).	July 24, 2008
110–142	The Recent Salmonella Outbreak: Lessons Learned and Consequences to Industry and Public Health (Subcommittee on Oversight and Investigations).	July 31, 2008
110–143	H.R. 6594, the “James Zadroga 9/11 Health and Compensation Act of 2008” (Subcommittee on Health).	July 31, 2008
110–144	NIH Reform Act of 2006: Progress, Challenges, and Next Steps (Subcommittee on Health).	September 9, 2008
110–145	Protecting the Electric Grid from Cyber-Security Threats (Subcommittee on Energy and Air Quality).	September 11, 2008
110–146	Economic and Security Concerns in Tourism and Commerce: H.R. 3232 and H.R. 1776 (Subcommittee on Commerce, Trade, and Consumer Protection).	September 11, 2008

## Printed Hearings of the Committee on Energy and Commerce—Continued

Serial No.	Hearing Title	Hearing Date(s)
110–147	H.R. 3402, the “Calling Card Consumer Protection Act” (Subcommittee on Commerce, Trade, and Consumer Protection).	September 16, 2008
110–148	Status of the DTV Transition: 154 Days and Counting (Subcommittee on Telecommunications and the Internet).	September 16, 2008
110–149	Science Under Siege: Scientific Integrity at the Environmental Protection Agency (Subcommittee on Oversight and Investigations).	September 18, 2008
110–150	America’s Need for Health Reform (Subcommittee on Health) .....	September 18, 2008
110–151	Hazardous Substance Releases and Reporting Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).	September 24, 2008
110–152	A Review of Continuing Security Concerns at DOE’s National Labs (Subcommittee on Oversight and Investigations).	September 25, 2008
110–153	Treatments for an Ailing Economy: Protecting Health Care Coverage and Investing in Biomedical Research (Subcommittee on Health).	November 13, 2008

## PART B

## Committee Prints

The Committee on Energy and Commerce did not publish any committee prints during the 110th Congress.

